Transcripts
of
Records
1860.

Vol. 2.
Supreme Court U. States.
Dec. Term 1860.

No. 2.

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Preamble.

Proceedings of the circuit court of the United States for the district of Kentucky, at the regular term thereof, begun and held at the capitol, in the town of Frankfort, on Monday, the 18th day of October, A. D. 1858.

Present, the Honorable John Catron, associate justice of the Supreme Court of the United States, and Thomas B. Monroe, judge of the United States for the district of Kentucky.

Style of Suit.

THE NILES WORKS, Libellants and Appellants,
against
THE STEAMBOAT DOCTOR ROBERTSON, her tackle, apparel, and furniture, and Jesse W. Page and J. C. Leake, owners and claimants, Defendants.
} In Admiralty.

Record Filed.

Be it remembered, that heretofore, to wit, on the 20th day of August, A. D. 1857, came the "Niles Works," libellants, by James Harlan, esq., their proctor, and filed the following transcript of the record of the proceedings had in the district court of the United States for the Kentucky district, in the cause therein named, and from the decree in which cause the said libellants had prayed for and obtained an appeal to the circuit court of the United States for said district:

Transcript of the Record of the Proceedings in the District Court.

NILES WORKS
vs.
ST'R DR. ROBERTSON.

Proceedings of the district court of the United States of America for the district of Kentucky, at the regular term thereof, begun and held at the capitol, in the town of Frankfort, on Monday, the 18th day of May, A. D. 1857.

Present, the Honorable Thomas B. Monroe, judge of the United States for the district of Kentucky.

Parties' Names.

CHRISTOPHER G. PEARCE, HENRY A. JONES, George L. Hanks, Patrick Rogers, William McElwee, Samuel Boggs, William Aarons, Leander H. Corry, Charles W. Smith and Stephen Allen, incorporated and acting under the name of the "Niles Works," Libellants,
against
THE STEAMBOAT DOCTOR ROBERTSON, her tackle, apparel and furniture, Jesse W. Page and Joseph C. Leake, claimants, Defendants.

In Admiralty.—In a cause of collision, civil and maritime.

Libel Filed.

Be it remembered, that heretofore, to wit, on the 28th day of October, A. D. 1856, came the libellants aforesaid, by James Harlan, esq., the proctor, into the clerk's office of the district court of the United States for the district of Kentucky, and produced and filed their libel herein against the steamboat Doctor Robertson, her tackle, apparel, engines and furniture, and all persons intervening for their interest in the same.

Upon the filing of which the following stipulation for costs was filed by the libellants:

Stipulation for Costs.

District Court of the United States for the district of Kentucky.

Whereas a libel is about to be filed in this court by Christopher G. Pearce, Henry A. Jones, George L. Hanks, Patrick Rogers, William McElwee, Samuel Boggs, William Aarons, Stephen Allen, Leander H. Corry and Charles W. Smith, incorporated and acting under the name of the "Niles Works," libellants, against the steamboat Doctor Robertson, her machinery, tackle, apparel and furniture, for the reasons and causes in the said libel mentioned, and praying that the same may be condemned and sold to answer the prayer of the libellants; and the said libellants, Christopher G. Pearce and Z. M. Sherley, the parties hereto, consenting and agreeing that, in case of default or contumacy on the part of the libellants or their surety, execution may issue against their goods, chattels and lands, for the sum of three hundred dollars:

Now, therefore, it is hereby stipulated and agreed, for the benefit of whom it may concern, that the stipulators undersigned shall be and are bound in the sum of three hundred dollars, conditioned that the libellants above named shall pay all such costs as shall

be awarded against them by this court in this case, or in case the same be appealed by the appellate court.

C. G. PEARCE, [SEAL.]
Per GEO. E. LEIGHTON.
Z. M. SHERLEY, *Surety.* [SEAL.]

Taken and acknowledged this 27th October, 1856, before me, W. S. Pilcher, commissioner of affidavits, &c., of the United States, appointed by the circuit court in and for the 8th circuit and Kentucky district, residing in Louisville, having no seal.

W. S. PILCHER.

UNITED STATES,
District of Kentucky.

Z. M. Sherley, party to the above stipulation, being duly sworn, deposes and says, that he resides in the city of Louisville, in the State of Kentucky, and is worth the sum of six hundred dollars over all his debts.

Z. M. SHERLEY.

Sworn to before me and subscribed in my presence this 27th October, A. D. 1856, a commissioner of affidavits, &c., in and for the 8th circuit and Kentucky district, appointed by the circuit court therein, residing in Louisville, having no seal.

W. S. PILCHER,
Comm'r, &c.

Upon the filing of the libel and stipulation for costs, the following monition and attachment issued:

Monition and Attachment.

[L. S.]

The United States of America to the Marshal of the Kentucky district, greeting:

Whereas a libel has been filed in the district court of the United States for the Kentucky district, on the 28th day of October, 1856, by Christopher G. Pearce and others, incorporated and acting under the name of the "Niles Works," against the steamboat Doctor Robertson, her engines, tackle, apparel and furniture, in a certain cause of collision, civil and maritime, for the reasons and causes in the said libel mentioned, and praying the usual process and monition of the said court in that behalf to be made, and that all persons interested in the said steamboat, her engines, tackle, apparel and furniture, may be cited in general and special to answer the premises; and all proceedings being had, that the said steamboat, her engines, tackle, apparel and furniture, may, for the causes in the said libel mentioned, be condemned and sold to pay the demands of the libellants:

You are, therefore, hereby commanded to attach the said steamboat Doctor Robertson, her engines, tackle, apparel and furniture, and to detain the same until the further order of the court respecting the same, or until discharged according to law, and to give due notice to all persons claiming the same, or knowing or having anything to say why the same should not be condemned and sold pursuant to the prayer of the said libel; that they be and appear before the said court, to be held at the capitol, in the city of Frankfort, on the first Monday in December next, if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to interpose a claim for the same, and to make their allegations in that behalf. And what you shall have done in the premises, do you then and there make return thereof, together with this writ.

Witness the Honorable Thomas B. Monroe, judge of the said court, at the city of Frankfort, in the district of Kentucky, this the 28th day of October, A. D. 1856, and in the year of our independence the eighty-first.

JOHN A. MONROE,
C'k D. C.

LINCOLN, SMITH & WARNOCK,
JAMES HARLAN,
Proctors for Libellants.

Endorsement.

Endorsed: The marshal is directed that, after he shall have seized the within named steamboat, he may restore her to the possession of the master, or other person in whose possession she was found, on there being executed a bond, with two or more sureties, to be approved by the collector of the port at Louisville, in the penalty of nine thousand dollars, payable to the libellant; and shall return said bond with this writ.

Att: JOHN A. MONROE, *C'k D. C.*

Return.

Marshal's Return.

The foregoing process came to my hands as dept. marshal for T. J. Young, marshal of the U. States for the Kentucky district, on the 12th day of November, 1856, at 8 o'clock p. m., and executed by seizing and taking into my possession, on the 14th day of November, 1856, said steamboat Doctor Robertson, her engine, tackle, furniture, &c., and by delivering a copy of said process to the captain in charge of her at the time, Joseph C. Leake, and left the boat tied to the wharf-boat of Watts, Given & Co., at the landing at Paducah, in charge of two men summoned by me to hold her in charge. And said Captain Jo. C. Leake went immediately with me up in town, as he said, to give a bond and have the boat restored

to him, but failed at that time to do so; when, the same night, I started to return to the boat, and before reaching the landing, an officer of the boat caused her to be untied and shoved out into the river without ringing her bell, and the boat took said captain on board below the town landing, and went off to the city of Memphis, Tennessee, to which place I pursued her and caught her again and took her into my possession and brought her back to Paducah, Ky., again. Whereupon Jo. C. Leake and Jesse W. Page, with P. G. Meath and D. A. Given, sureties, on the 20th November, 1856, executed bond according to law. And said boat, Doctor Robertson, &c., was then restored to defendants, Leake and Page.

Given under my hand, as deputy marshal aforesaid, this Nov. 20th, 1856.

D. Y. CRAIG, *Deputy*,
For T. J. YOUNG,
U. S. Marshal for Kentucky District.

Bond Executed by Claimants.

Know all men by these presents, that we, Jo. C. Leake, Jesse W. Page, P. G. Meath and D. A. Given, are held and firmly bound in the sum of nine thousand $\frac{84}{100}$ dollars, unto Christopher G. Pearce, Henry A. Jones, George L. Hanks, Patrick Rogers, William McElwee, Samuel Boggs, William Aarons, Leander H. Corry, Stephen Allen and Charles W. Smith, incorporated and acting under the name of the "Niles Works," libellants, in the cause hereafter named, their executors, administrators or assigns, to which payment well and truly to be made, we bind ourselves, and each of us, jointly and severally, our and each of our heirs, executors and administrators, by these presents. Sealed with our seals, and dated this 20th day of November, A. D. 1856.

Whereas a libel has been filed in the district court of the United States for the district of Kentucky, on the 28th day of October, A. D. 1856, by the above named Christopher G. Pearce, Henry A. Jones, George L. Hanks, Patrick Rogers, William McElwee, Samuel Boggs, William Aarons, Leander H. Corry, Stephen Allen and Charles W. Smith, incorporated and acting under the name of the Niles Works, against the steamboat Doctor Robertson, her machinery, tackle, &c., in a cause of collision, civil and maritime, for the sum of four thousand six hundred and eighty-six $\frac{92}{100}$ dollars, therein alleged to be due and owing as damages to the said libellants:

Now, the condition of this obligation is such, that if the above bounden J. C. Leake, Jesse W. Page, P. G. Meath and D. A. Given, shall abide and answer the decree of this court in such

cause, then the above obligation shall be void; otherwise in full force.

JO. C. LEAKE, [SEAL.]
JESSE W. PAGE, [SEAL.]
P. G. MEATH, [SEAL.]
D. A. GIVEN. [SEAL.]

Sealed and delivered in the presence of—
D. Y. CRAIG,
Deputy Marshal,
for T. J. YOUNG,
U. S. Marshal, Ky.
G. SMEDLEY.

DISTRICT OF KENTUCKY.

P. G. Meath and D. A. Given, being duly sworn, says, each for himself, that he is worth the sum of nine thousand three hundred and seventy-three $\frac{84}{100}$ dollars, over and above all his just debts and liabilities.

Sworn to before me, this 20th day of November, A. D. 1856.
G. SMEDLEY, *J. P. M. C.*

The following is the libel filed herein:

Libel.

To the Hon. Thomas B. Monroe, judge of the district court of the United States for the district of Kentucky:

The libel of Christopher G. Pearce, Henry A. Jones, George L. Hanks, Patrick Rogers, William McElwee, Samuel Boggs, William Aarons, Leander H. Corry, Charles W. Smith and Stephen Allen, incorporated and acting under the name of the "Niles Works," under and by virtue of the statute of the State of Ohio, passed May 1st, 1852, entitled "An act to provide for the creation and regulation of incorporated companies in the State of Ohio," against the steamboat Doctor Robertson, her tackle, apparel, engines and furniture, and all persons intervening for their interest in the same, in a cause of collision, civil and maritime, allege as follows:

First. That your libellants, at and before the time of collision, hereinafter in the third article mentioned, were the owners and proprietors of a large amount of iron castings made for and intended as sugar-mill machinery, which was at the time of the said collision then in a flat-boat being floated down the Ohio river on its way to , in the State of Louisiana, to which place it was destined for sundry persons in the said State.

Second. That the said flat-boat, then being well and sufficiently manned and equipped, and in all respects river-worthy, was at the time being navigated in the Ohio river, in the day time, in the channel of the river, and in the usual place for

navigating such craft, and near the Illinois shore and along the side of the Cincinnati Towhead—say about twenty-five feet therefrom, and had just crossed over from the Kentucky side, and was at the time in full and fair view of the Doctor Robertson and her pilot, and had been for some time, and that she had all her men at their posts.

Third. That on the eighth day of August, 1856, at about eight o'clock in the forenoon of that day, and while the said flat-boat was being navigated as aforesaid, the said steamboat Doctor Robertson approached her, coming up the river, and having a lighter in tow, with full speed, and although the said flat-boat was in full view of her pilot, and there was ample room for the said steamboat to pass to the left of and between her and the Cincinnati bar, which bar lay between the said flat-boat and the Illinois shore, yet the said steamboat endeavored to run between the said flat-boat and the said Towhead, and ran herself and the said lighter with great force directly into and upon the said flat-boat, and broke in the sides thereof, and caused the said flat-boat immediately to sink in about twenty feet of water, and so injured it as to render it entirely useless.

Fourth. That those in charge of the said steamer "Doctor Robertson" should have seen the said flat-boat long before they reached her, and by the usages and customs of the river should have gone on the larboard side of it, and between it and the Cincinnati bar, where there was ample room to run, and was in duty bound to have avoided the same, as she well might have done. But disregarding their said duty, those in charge of the said steamboat, through carelessness and unskilful navigation, ran into and sunk the said flat-boat.

Fifth. That the said collision and consequent damage was not caused in any respect by the want of care and skill and by the fault of those in charge of the said flat-boat, but was wholly caused by the want of care and skill and by the fault of those in charge of the said steamboat "Doctor Robertson."

Sixth. That the libellants by reason of the said collision were put to a large expense, amounting in all to the sum of $3,355 12, to rescue a part of the said machinery from the peril in which it had been put by the said disaster, and in placing the same in another flat-boat, in order that it might be conveyed to its intended destination: and a large part of the said machinery, worth the sum of $1,331 81, was wholly lost and destroyed.

Seventh. That the libellants had built this machinery for divers persons in Louisiana, and were by their contracts with said persons to deliver it to them on or before the first day of September, A. D. 1856, and that by reason of the said collision they will be unable to fulfil their said contract, and they may be compelled to pay heavy damages on account thereof. This damage it is impossible

for them definitely to allege, but they say it may amount to a considerable sum—that they will be able to show more definitely on the trial what it is, and ask to be protected in this regard.

Eighth. They further allege that the said steamer Doctor Robertson, and those in charge of her, had ample means of knowing what was in the said flat-boat, and did in fact know that it was such machinery built by order, and that it was on its way to fill that order; that such machinery, and in fact all machinery, is never built except by contract, and that those in charge of the said steamboat must have known, and did know, though they might not have known the particular person or persons to whom it was destined, nor the terms of the contract by which it was made; yet they could not but know, and did know, that the sinking of it would cause great damage to some one over and above the value of the same, which might be thereby lost, and the expense of recovering that which might be recovered, and hence the said boat is fairly chargeable with the said loss or damage.

Ninth. That the said steamer was only licensed and enrolled and carrying on commerce among the States, and was of more than fifty tons burthen, and was navigating the Ohio river at the time of the said collision, on a trip from St. Louis, in the State of Missouri, to Louisville, in the State of Kentucky.

Tenth. That the said steamboat Doctor Robertson is now within the district of Kentucky, and within the jurisdiction of this court.

Eleventh. That all and singular the premises are true, and within the admiralty and maritime jurisdiction of the United States and of this honorable court.

Wherefore the libellants pray that process in due form of law, according to the course of this honorable court in causes of admiralty and maritime jurisdiction, may issue against the said steamboat, her tackle, engines, apparel and furniture; and that all persons having any interest therein may be cited to appear, and answer all and singular the matters aforesaid, and that this honorable court would be pleased to decree the payment of the damages, and that the said steamboat may be condemned and sold to pay the same, and that the libellants may have such other and further relief as in law and justice they may be entitled to receive.

CHARLES W. SMITH.

UNITED STATES,
Southern District of Ohio.

Sworn to before me and subscribed in my presence this 25th day of October, A. D. 1856.

A. K. DUTTON, *U. S. Commissioner.*

LINCOLN, SMITH & WARNOCK,
JAMES HARLAN,
Proctors for Libellants.
T. D. LINCOLN, *Advocate.*

Order Entering Appearance and Claim of Page and Leake.

And afterwards, at a court continued and held for the district aforesaid, on Monday, the first day of December, 1856, came the libellants, by James Harlan, esq., their proctor, and Jesse W. Page and Joseph C. Leake, by Thomas N. Lindsey, their proctor. The marshal having returned the warrant of seizure, that he had seized the said boat and thereupon restored her to the possession of the said Page and Leake, on their stipulation with surety, as by him returned, the said Jesse W. Page and Joseph C. Leake presented their claim to said boat, her tackle, &c., as the sole owners thereof, with their answer to the libel, which is filed.

Claim and Answer of Page and Leake.

The claim and answer is in these words:

To the Honorable Thomas B. Monroe, Judge of the District Court of the United States for the district of Kentucky:

The claim and answer of Jesse W. Page and Joseph*us* C. Leake, sole owners of the steamer Doctor Robertson, her furniture, tackle and apparel, intervening for their right and interest therein in the suit of Christopher G. Pearce and others, purporting to be incorporated under the name of the Niles Works, against said steamboat, her furniture, tackle and apparel.

1st. The defendants say that they are the owners and only owners of said steamer, her furniture, tackle and apparel, and they know nothing of the claim or ownership of the libellants to the iron castings, machinery, and the flat-boat containing the same, referred to by the libellants, and therefore require proof.

2d. They do not admit, but deny, that the said flat-boat was well and sufficiently found, manned and equipped, or was river-worthy, at the time stated by libellants, for the carrying of such freight as was in the same. They admit said flat-boat was at the time navigating the Ohio river in the day time; but they deny that she was in the usual place for navigating such craft, or that she was near the Illinois shore. They admit that she was not far from the Cincinnati Towhead. They admit that said boat had started to make a crossing, but deny that they had made said crossing as far as they ought to have done. They deny that said flat-boat either had a complement of men, or that they were at their posts.

3d. They admit that, on the 8th day of August, 1856, at about the hour stated, the said flat-boat came in collision with the lighter of the steamboat, but they deny that said steamer approached the flat-boat with full speed; on the contrary, she was running slow. It is true, as they are advised, the flat-boat was in full view of the pilot of the steamer, but they deny that it was pro-

per or would have been safe or right for the steamer to have passed to the left, because it would have been contrary to the rules or usage of the river to have done so. The steamboat was in her proper position and track, near the Kentucky shore, as near as she could safely go, and had the crossing to make but a short distance above where she was, and could only have made it properly by pursuing the course she was in, because there were two flat-boats but a short distance behind the flat-boat herein claimed by libellants, which had been pulled out further into the channel, and in the position the boat of libellant's ought to have been, and which would have been endangered had the steamer gone to the left; because the said flat-boat should have been pulled out further into the channel, and would thereby have avoided the collision, and which they could have done and ought to have, if they knew the river and usages of navigation thereof.

They deny that their steamboat was run against the flat-boat or the lighter attached thereto, with great force; on the contrary, the engines were stopped, and every means used that the managers of said boat could have used under the circumstances. The fault was with the managers of the said flat-boat not pulling out further into the channel, or as far as they should have done, knowing the steamer had the crossing to make, and must keep close to the shore, where she was to make it. They admit a collision took place, and the flat-boat sunk.

4th. They admit that those in charge of the steamer saw the flat-boat before they reached her, but deny that by the usages or customs of the river the steamer should or ought to have gone to the larboard of the flat-boat, and they deny they knew or had right to suppose anything else than that the managers of the flat-boat would pull out, until they were far enough to be clear of the steamboat and her lighter, as the two flat-boats believed they were doing, and did as the steamer came up. They deny that the managers of the steamboat failed to do their duty in any particular, or that the collision took place by any carelessness or unskilful management on their part.

5th. They deny that said collision and damage complained of occurred or was caused by any want of care or proper management of said steamboat; but was occasioned solely by the fault of those in charge of the flat-boat, and by their want of skill and care.

6th. They know nothing of the extent of loss or damage occasioned by the sinking of said flat-boat, but deny that it could have been in anything like such sum as stated by the libellants, and they deny that machinery of anything like such value as was stated was lost.

7th. The defendants do not admit the right of libellants to claim against them for any such damage as is supposed in the 1st paragraph. They know nothing of any contracts such as libel-

lants state, and do not admit the same. They deny any considerable damage thereon, or that they are bound therefor in any event; and they except to this paragraph of the libel.

8th. They deny that the managers of the said steamboat knew or could know with what said flat-boat was laden, until at the moment of the collision; or if they had known, that it could have made any difference.

They deny they knew anything of its being machinery made to order, or where it was going, or that it was never built except by contract. They deny that they knew anything of the value of the machinery, or what loss would be or was occasioned; nor do they suppose this fact could have made any difference. They deny that said steamer is chargeable for any of the causes in the 8th paragraph of the libel stated.

9th. It is admitted said steamer was duly licensed and enrolled, and was carrying on commerce between the States.

10th. They suppose the said steamboat was in the district of Kentucky at the date stated.

11th. They deny that all and singular the premises stated in said libel are true, or that any of them charging fault, negligence, unskilfulness, want of care, or that the collision occurred in any way but by the fault of the managers of the flat-boat, are true. They are not advised as to whether the matters are within the jurisdiction of the district court of Kentucky or not, and ask to have this question reserved.

They deny the rights of libellants to any *to any* decree against them, and their said steamboat, her furniture, tackle and apparel, but pray that they be hence dismissed with their costs, and that said libel be dismissed.

THO. N. LINDSEY,
For Def'ts.

Jesse W. Page says that the matters and things set forth in this answer, so far as stated of his own knowledge, are true, and so far as stated on the information of others, he believes the same to be true.

JESSE W. PAGE.

UNITED STATES OF AMERICA,
District of Kentucky.

Subscribed and sworn to before me, by Jesse W. Page, this 1st day of December, 1856.

J. A. MONROE, *C'k D. C.*

Order filing Replication.

And afterwards, on the next day of said term, to wit, Tuesday, the 2d day of December, 1856, the libellants, by James Harlan, esq., their proctor, came again; and the claimants, by Tho. N.

Lindsey, esq., their proctor, being present, the libellants by their proctor filed their general replication to the answer of the claimants; which is in these words:

Replication.

UNITED STATES OF AMERICA,
8th circuit and Kentucky district.

To the Honorable Thomas B. Monroe, Judge of the District Court of the United States for the district of Kentucky:

The replication of Christopher G. Pearce, Henry A. Jones, George L. Hanks, Patrick Rogers, William McElwee, Samuel Boggs, William Aarons, Leander H. Corry, Stephen Allen, and Charles W. Smith, incorporated under the name of the "Niles Works," libellants, to the answer of Jesse W. Page and Josephus C. Leake, alleges that they, the said libellants, will aver, maintain, and prove their libel to be true, certain, and sufficient, and that the said answer of the said defendants is uncertain, untrue, and insufficient; and they humbly pray, as in and by their said libel they have already prayed.

J. HARLAN,
Proctor for Libellants.

Order for Publication.

And on the same day came the libellants, by James Harlan, their proctor, and the claimants, by Thomas N. Lindsey, esq., their proctor; and the marshal having returned the warrant of seizure, that he had seized the boat, her tackle, &c., but afterwards restored her to the said Page and Leake, claimants, as the owners, on the stipulation by him returned, by the agreement of the said parties, the cause is set for hearing on the 1st Monday in February next. All other persons concerned are admonished they may intervene for their interest.

Let this order be published in the newspaper designated by the general order of the court, once in each week after the present in the daily, and in all the weeklies, after the present, until the day of hearing.

Proof of Publication.

Upon a copy of the foregoing order the following proof of publication is made:

LOUISVILLE, KY., *February 3d*, 1857.

The undersigned, publishers and proprietors of the "Louisville Democrat," do hereby certify that the annexed entry was published in the Louisville Democrat—in the daily on the 8th of December, 1856, and once in each weekly succeeding for nine insertions, until Monday, February 2d, 1857, and in the weekly of the 10th of

December, 1856, and of each week thereafter, until Wednesday, January 28th, 1857, the last edition before the day of sale, making eight insertions.

HARNEY & HUGHES,
By M. CARROLL.

And W. E. Hughes, of the firm of Harney & Hughes, certifies that the above publication was made in the daily Democrat on the 8th December, 1856, and in each weekly Democrat succeeding, until the 2d February, 1857.

W. E. HUGHES.

Subscribed and sworn to before the undersigned, a justice of the peace of Kentucky for Jefferson county, at the city of Louisville, Jefferson county, Ky., on this 11th day of February, 1857.

J. M. STEPHENS,
J. P. J. C.

February 2d, 1857.—Hearing postponed until next day.

Heard in part.

February 3d, 1857.—Came the libellants, by Ben. Monroe, esq., their proctor, and the claimants, by Thos. N. Lindsey, esq., their proctor, and the evidence was heard in part; but on the motion of the parties, by their proctors, the further hearing of this cause is postponed until to-morrow.

Postponed.

February 4th, 1857.—Further hearing postponed until the 4th Monday in March, 1857.

Depo. opened.

March 23d, 1857.—On motion of the libellants, by their proctors, the depositions returned here for this cause, and remaining unopened, two packets under the seal of A. K. Dulton, commissioner, are opened and filed; and on motion of the defendants, by their proctor, the depositions returned here for this cause, and remaining unopened, one packet under the seal of B. Shamessy, magistrate, and another packet under the seal of E. A. Rawworth, magistrate, are opened and filed.

The libellants, by their proctors, filed exceptions to the depositions of William T. Yeatman, B. J. Caffrey, Henry Winters, and Osborne Devinney.

The defendants, by their proctor, filed exceptions to the depositions of George W. Ford, James Fife, Julian Douglass, Ralph N. Douglass, Alexander Ford, Frank Stein, William Killian, A. M. Ross, Wiley McGee, John Sebastian, B. K. Barclay, and John H. Farrell.

The several exceptions of each party to the depositions of the other party were argued, but the court took time.

Further heard.

The cause was further heard. Thomas D. Mitchell, a witness, was examined on the part of the defendant, and further hearing postponed until to-morrow.

Libellants' Exceptions to Depo's sustained.

March 24th, 1857.—The court being now advised, the exceptions of the libellants to the depositions of Henry Winters and Osborne Devinney are sustained, and said depositions are suppressed. On motion of defendants, by their proctor, leave is given to retake the depositions of said witnesses.

The exceptions to the depositions of William T. Yeatman and B. J. Caffrey are overruled.

Order giving time to Libellants.

On motion of the libellants, by their proctors, leave is given them to produce further evidence, that the deponents, George W. Ford, James Fife, Julian Douglass, Ralph N. Douglass, Alexander Ford, Frank Stein, Wiliam Killian, A. M. Ross, Wiley McGee, John Sebastian, P. K. Barclay, and John H. Farrell, to whose depositions defendants excepted, did go and remain yet out of the district, and more than one hundred miles from the place of holding this court; and time is given them until the day to which the further hearing of this cause shall be postponed. And the further hearing of this cause is, by the agreement of the parties, fixed for the Wednesday after the second Monday in May next, and the same is postponed accordingly at the costs of the libellants.

Order.

Wednesday, 13th May, 1857.—Came the libellants, by Ben. Monroe and James Harlan, esqs., their proctors, and the defendants, by Thomas N. Lindsey, esq., their proctor.

Depo's opened.

On motion of the defendants, by their proctor, the deposition of Jefferson Page, received under the seal of E. A. Rawworth, justice of the peace, is now opened and filed.

Def'ts' Exceptions sustained.

The libellants, by their proctors, offered further evidence to show that the deponents, George W. Ford, James Fife, Julian Douglass, Ralph N. Douglass, Alexander Ford, Frank Stein, William Killian, A. M. Ross, Wiley McGee, John Sebastian, P. K. Barclay, and John H. Farrell, did go and yet remain out of the dis-

trict, and more than one hundred miles from the place of holding this court; and the same having been heard, the exceptions of the defendants to the depositions of said witnesses were thereupon fully heard, and the matter having been fully considered, it is adjudged by the court that the said exceptions of the defendants to the depositions of said witnesses of the libellants be and the same are sustained; and the depositions are accordingly suppressed.

NOTE.—The testimony used on the hearing of this cause in the district court, and a part of this record, is transcribed in the record, infra, page 116 to 125.

Heard.

May 13, 1857.—The cause thereupon came on to be further and finally heard, and the testimony of the parties having been fully heard, the cause was thereupon argued by the counsel; whereupon the premises having been fully considered and understood—

Decree.

It is found and adjudged by the court that the allegations of the libellants, contested and traversed by the claimants, are not sustained by the proofs. Wherefore it is adjudged by the court that the libel, and demand of them, the said C. G. Pearce, Henry A. Jones, George L. Hanks, Patrick Rogers, William McElwee, Samuel Boggs, William Aarons, Leander H. Corry, Charles W. Smith, and Stephen Allen, incorporated and acting under the name of "Niles Works," be and the same are hereby dismissed; and that their supposed cause of action, being so adjudged against them, they are and shall be henceforth thereof barred. And it is adjudged by the court that the said C. G. Pearce and others pay to the claimants, Jesse W. Page and Josephus C. Leake, their costs in their claim and defence herein expended.

The clerk is directed to tax said costs, that the claimants may in due time have execution.

Claimants' costs:	Clerk	$20 15
	Marshal	63 10
	Witnesses	15 30
	Deposition	16 00
	Atto	35 00
		$149 55

Libellants' costs:	Clerk	27 11
	Marshal	49 00
	Witnesses	
	Depo's	
	Printer	27 50

Notice of Appeal.

And on the 20th May, 1857, the following notice of appeal was lodged in the clerk's office:

The District Court of the United States for the State of Kentucky.

C. G. PEARCE et al.
vs.
THE STEAMER DOCTOR ROBERTSON et al. } In Admiralty.

SIR: We intend to appeal from the final decree of the court in this cause, and intend to introduce on the trial in the court above, for the first time, other testimony than that upon which the cause was tried in this court.

JAMES HARLAN,
BEN. MONROE,
Proctors for Libellants.

To JOHN A. MONROE, *C'lk.*

May 20, 1857.

Petition for Appeal.

And on the 21 May, 1857, the following petition for appeal was presented in court:

The District Court of the United States for the State of Kentucky.

C. G. PEARCE et al., under the style of THE NILES WORKS,
vs.
THE STEAMER DOCTOR ROBERTSON et al. } In Admiralty.

The libellants state that they filed a libel in the district court of the district of Kentucky, claiming to have compensation of the steamboat Doctor Robertson for negligently and carelessly running foul of a certain flat-boat, the property of the plaintiffs, and sinking the same in the Ohio river; and J. W. Page and J. C. Leake, contestants, intervened, claiming to be owners of said steamboat, and pleaded to the libel, and issues were formed, and proof taken, in said district court, and a judgment rendered by said district court on the 13th day of this month on behalf of the contestants, defendants, and from that judgment the libellants pray an appeal to the next circuit court, to be held for the circuit and district of Kentucky. They state that the damages which they claim exceed the sum of $300, besides costs. They pray that said cause be heard in the circuit court on appeal, on the proof on which the same was tried in the district court, and on such other proof as may be ad-

duced by either party on said trial. They ask that a reasonable time be given them to execute such bond as the court may require, if any.

C. G. PEARCE, &c.,
Constituting Niles Company.

May 20, 1857.

JAMES AND JOHN HARLAN and B. MONROE,
For Libellants

Appeal granted.

Upon the filing of which petition the following order was made herein:

Thursday, May 21, 1857.—Came the libellants, by Ben. Monroe and James Harlan, esqrs. their proctors, and presented their petition for an appeal from the decree of this court herein at its late term to the next circuit court of the United States for the Kentucky district.

On consideration whereof an appeal is granted them, according to the prayer of the petition, on condition that they, the said libellants, shall, within ten days from this date, cause to be entered into a stipulation for the benefit of the claimants, and all others who may be concerned, with good surety sufficient for the sum of five hundred dollars, for the payment of all such damages and costs as shall be recovered against the libellants in the circuit court or the Supreme Court of the United States in case of an appeal to that court. The stipulation may be entered into before the clerk or any commissioner of a court of the United States; the sureties justifying or their sufficiency being proved before the clerk or such com., and approved by him, and the stipulation filed in the clerk's office within ten days.

Stipulation on the Appeal.

In pursuance of the above order the following stipulation was filed:

UNITED STATES OF AMERICA.
District of Kentucky.

Whereas in a cause in admiralty in the district court of the United States for the said district, wherein Christopher G. Pearce, George L. Hanks, Patrick Rogers, William McElwee, Samuel Boggs, William Aarons, Stephen Allen, Leander H. Corry, and Charles W. Smith, incorporated and acting under the name of the Niles Works, were libellants, against the steamer Doctor Robertson, her tackle, &c., and Jesse W. Page and Josephus C. Leake, admitted as claimants, were defendants, and a decree having been rendered dismissing the libel, an appeal was prayed for and

obtained by the said libellants to the next term of the circuit court of the United States for this district: Now, the undersigned, James B. Summons, by his stipulation for the benefit of the claimants, and all others concerned, doth hereby bind himself, that the said appellants shall pay all such costs and damages as shall be awarded against them in the circuit court or in the Supreme Court of the United States, in case of an appeal to said court, and agrees that, in case of their failure to do so, process of execution may be issued against him, the undersigned.

J. B. SUMMONS, [SEAL.]
By T. D. LINCOLN,
His Attorney in fact.

Taken and acknowledged the 22 May, 1857, before the undersigned, and surety approved.

JOHN A. MONROE, *Clk D. C.*

UNITED STATES OF AMERICA,
District of Kentucky.

T. D. Lincoln being duly sworn, deposes and says, that the above named James B. Summons resides in the city of Covington, State of Kentucky, and he believes he is worth the sum of one thousand dollars over and above his debts.

T. D. LINCOLN.

Sworn to before me, and subscribed in my presence, this 22d day of May, 1857.

J. A. MONROE, *Clk D. C.*

Power of Attorney.

District Court of the United States for the district of Kentucky.

HENRY A. JONES et al., Proprietors of the NILES WORKS,
vs.
THE STEAMER DR. ROBERTSON.

We, the undersigned, do hereby appoint T. D. Lincoln, of Cincinnati, Ohio, or James Harlan, of Frankfort, Ky., our attorney, and the attorney of each of us, to sign our names to an appeal bond or bonds for the purpose of effecting an appeal from a decree of the said court in the above named cause to the circuit court of the United States for the said district of Kentucky, and the said Lincoln, or the said Harlan, either of them, is authorized to sign, seal and execute for us and each of us any such bond or stipulation, one or more of them for said purpose and in our names to sign and seal the same, and to do as our attorney, and the attorney of each of us, one or both of them, any and every act or thing necessary for the purpose of effecting such appeal.

In testimony whereof, we have hereunto set our hands and seals this 20 May, 1857.

CHARLES W. SMITH, [SEAL.]
C. G. PEARCE, [SEAL.]
J. B. SUMMONS. [SEAL.]
Niles Works, C. W. SMITH, *Sec'y.* [SEAL.]

Appeal Bond.

On the 30th May, 1857, the following bond was also filed herein:

UNITED STATES OF AMERICA,
District of Kentucky.

Whereas in a cause in admiralty in the district court of the United States for the said district, wherein Christopher G. Pearce, George L. Hanks, Patrick Rogers, William McElwee, Samuel Boggs, William Aarons, Stephen Allen, Leander H. Corry, and Charles W. Smith, incorporated and acting under the name of the Niles Works, were libellants, against the steamer Doctor Robertson, her tackle, &c., and Jesse W. Page and Josephus C. Leake, admitted as claimants, were defendants, and a decree having been rendered dismissing the libel, an appeal was prayed for and obtained by the said libellants to the next term of the circuit court of the United States for this district: Now the undersigned, James B. Summons, by his stipulation for the benefit of the claimants, and all others concerned, doth hereby bind himself, that the said appellants shall pay all such costs and damages as shall be awarded against them in the circuit court, or in the Supreme Court of the United States, in case of an appeal to said court, and agrees that, in case of their failure to do so, process of execution may be issued against him, the undersigned.

J. B. SUMMONS. [L. S.]

Taken and acknowledged before me this 29 May, 1857.
EDW'D R. NEWHALL,
United States Commissioner
for the south'n district of Ohio.

SOUTHERN DISTRICT OF OHIO, *ss.*

John B. Summons, a citizen and resident of the district of Kentucky, party to the above stipulation, being duly sworn, says, he is worth the sum of one thousand dollars over and above all his just debts and liabilities.

J. B. SUMMONS.

Sworn to and subscribed before me this 29 May, 1857.
EDWARD R. NEWHALL,
United States Commissioner
for the southern district of Ohio.

UNITED STATES OF AMERICA,
District of Kentucky.

I, John A. Monroe, clerk of the district court of the United States for the Kentucky district, certify that the preceding thirty-eight pages contain a full and true transcript of the record of the proceedings had in said court in the cause named in the caption.

In testimony whereof I have hereunto subscribed my name and affixed the seal of said court, this 20 day of August, 1857. [L. S.]

JNO. A. MONROE, *C'k D. C.*

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Depositions opened and filed.

Proceedings in the Circuit Court.

And afterwards, at the October term of the said circuit court of the United States for the Kentucky district, in the year 1857, and the 19 day of October, came the appellant's libellants, by Ben. Monroe and James Harlan, esqrs., their proctors, and the claimants, by Thomas N. Lindsey, esq., their proctor. And on the joint motion of the parties, by their proctors, a packet directed to

the "clerk of the district court of the United States for the district of Kentucky," and endorsed "district court of the United States—Niles Works against Steamer Doctor Robertson—depositions de bene esse on behalf of libellants"—sealed up and addressed by me, "Edward Rearden, notary public;" a packet directed to the "clerk of the district court of the United States for the district of Kentucky, Frankfort, Ky," and endorsed "Niles Works against Steamer Doctor Robertson—in admiralty—deposition of S. C. Barnett, de bene esse"—sealed up and addressed by me, "R. D. Baugh, mayor;" a packet directed to the "clerk of the U. S. circuit court at Frankfort, Ky.," and endorsed "the Niles Works vs. S. B. Doctor Robertson and owners—justice's fee $5, paid by defendants; J. Furniss, J. P.;" and a packet directed to the "clerk of the U. S. circuit court, Frankfort, Kentucky," endorsed "Niles Works vs. St. Boat Dr. Robertson and owners—depositions"—all received here by mail—were opened, and the depositions of William B. Edmondson, W. H. Jeffries, Albert Ware, John Walker, S. C. Barnett, B. A. Joyce, E. R. Marlan, Jefferson Page, and L. C. Merritt, and of Henry Winter, having been found enclosed, accordingly are, on the motion of the parties by their proctors, now filed in this cause depending in this court.

And on the further motion of the parties the following agreement is entered:

Agreement.

Circuit Court of the United States for the district of Kentucky.

C. G. PIERCE and others, incorporated as the NILES WORKS,
vs.
THE DR. ROBERTSON. } In Admiralty.

In this case it is agreed that the testimony of D. Mitchel may be received in evidence as though the same was taken by competent authority. All objections as to the mode of taking the same are waived, also all objections to the testimony of S. C. Barnett, Wm. B. Edmondson, John Walker, Albert Ware, and William H. Jeffries, for the reason that the same are taken as though the case were pending in the district court, waived only as to their being taken for district court instead of circuit court.

T. D. LINCOLN,
Proctor for Libellants.
THO. N. LINDSEY,
Proctor for Claimants.
J. HARLAN,
For Libellants.

And by agreement of the parties by their proctors this cause is continued until the next term of this court.

Heard in part.

And afterwards, at the October term of the said circuit court, in the year 1858, and Friday, October 22d, came the Niles Works, appellants, by Monroe and Smith, their proctors, and J. W. Page and J. C. Leake, appellees, by T. N. Lindsey, esq., their proctor, and this cause was heard in part, and further time given the parties.

Further heard.

Saturday, October 23d, 1858.

Came again the appellants, by Harlan, Monroe and Smith, their proctors, and the appellees, by Lindsey, their proctor, and this cause was further heard, but there not being time to conclude the hearing, further time is given the parties.

Heard.

Saturday, October 30th, 1858.

Came again the parties, by their proctors, and the evidence having been fully heard, this cause was argued by the proctors: but the court not being advised, time is taken.

Testimony—Appellants—Act of Incorporation.

The following is the testimony heard on the trial of this cause:

The appellants read the following paper:

We, whose names are hereunto attached, have associated, and do hereby associate ourselves together, for the purpose of engaging in the business of manufacturing machinery, castings, implements, and other articles from iron, brass, copper, and other materials, and of becoming an incorporated company to carry on the aforesaid business, under the act entitled "An act to provide for the creation and regulation of incorporated companies in the State of Ohio," passed May 1, 1852, and acts amendatory thereto.

That the capital stock necessary for the contemplated business is one hundred thousand dollars.

That the amount of each share of the capital stock is one hundred dollars. That the name of the place where the manufacturing establishment is to be located is Cincinnati.

The name and style by which the company should be known shall be "Niles Works."

C. G. PEARCE, [SEAL.]
H. A. JONES, [SEAL.]
GEO. L. HANKS, [SEAL.]
PATRICK ROGERS, [SEAL.]
WM. McELWEE, [SEAL.]
SAM'L BOGGS, [SEAL.]
WM. AARONS, [SEAL.]
A. R. IRVINE. [SEAL.]

THE STATE OF OHIO,
Hamilton Co., ss.

Personally appeared before me, a justice of the peace within and for said county the within named Henry A. Jones, C. G. Pearce, Patrick Rogers, William Aarons, Samuel Boggs, A. R. Irvine, G. L. Hanks, and William M. Elwee, signers and sealers of the foregoing certificate, and acknowledged respectively that the signing and sealing thereof was their voluntary act and deed.

Cincinnati, Nov. 7, 1854. Sworn to and subscribed before—
C. F. HAUSELMAN, [SEAL.]
Justice of the Peace.

THE STATE OF OHIO,
Hamilton County, ss.

I, James M. McMaster, clerk of the court of common pleas, within and for said county, do hereby certify that C. F. Hauselman, esq., before whom the acknowledgment of Henry A. Jones, C. G. Pearce, Patrick Rogers, William McElwee, William Aarons, Samuel Boggs, A. R. Irvine and G. L. Hanks, to the execution of the foregoing certificate, appears to have been made, was at the time of taking and subscribing the same an acting justice of the peace in and for said county, duly commissioned and qualified, and that full faith and credit are due to all his official acts as such.

In testimony whereof, I have hereto set my hand and affixed the [L. S.] seal of the said court at Cincinnati, this seventh day of November, 1854.

J. M. McMASTER, *Clerk.*

SECRETARY OF STATE'S OFFICE,
Columbus, November 8, 1854.

I, William Trevitt, secretary of state of the State of Ohio, do hereby certify that the foregoing and annexed is correctly copied from the original certificate of association of the Niles Works, filed and remaining of record in this office.

In testimony whereof, I have hereunto subscribed my name and [L. S.] affixed the great seal of said State at Columbus, this day and year aforesaid.

WILLIAM TREVITT,
Secretary of State.

The appellants then read the following depositions:

Deposition of S. C. Barnett.

Deposition of S. C. Barnett:

Question 1. What is your age, residence, and occupation?

Answer. Forty-five years old; reside in Memphis; occupation, boarding-house and boat store.

Question 2. What connection had you with the steamboat Doctor

Robertson in August, 1856, on trip up the Ohio river? State what you know of a collision which happened between that steamboat and a flat-boat loaded with machinery, near the Cincinnati Towhead.

Answer. I was passenger on board the steamer Doctor Robertson at that time on my way from Memphis to Mt. Vernon, Indiana, and about five or six miles below Shawneetown; she came in collision with a flat-boat loaded with sugar-mill machinery—I do not remember the day of the month—at about 9 or 10 o'clock in the morning on a clear, fair day; the flat-boat had come over the reef, and had straightened down, and was about one hundred feet from the Towhead, and was lying about straight with it; I was sitting on the larboard side on the boiler-deck, pretty well forward, and had been sitting there about half an hour before the collision; the steamboat had been running up about fifty feet from the shore, or say seventy-five feet. She had a lighter in tow on the larboard side; when she got very near the flat-boat she turned out a little from the shore to avoid a snag just above her, but kept on until her lighter struck the flat-boat.

Question 3d. About how far from the Towhead was the bow of the steamboat at the time of the collision?

Answer. About fifty, sixty, or seventy-five feet.

Question 4th. For what distance on that morning could the flat-boat have been seen by the pilot of the steamboat before he reached the flat-boat?

Answer. He could have seen her for a mile very plainly; I think I saw her off farther than a mile.

Question 5th. State whether or not the steamboat was running at the time of the collision, or whether she had stopped.

Answer. She was running at full headway, and did not stop until *he* lighter struck the flat-boat and ran half way over it. The flat-boat sunk almost immediately, and the steamboat then flanked towards the shore and laid there for a few moments, and then went on.

Question 6th. State what could have been done by those on board the flat-boat to have avoided the collision, and what could have been done on the part of the steamboat to have avoided the collision.

Answer. On the part of the flat-boat nothing could have been done, as she was lying in the best possible position. The steamboat could have stopped and landed a minute or two before, so as to let the flat-boat pass.

Question 7th. State what connection you have had with the navigation on the Ohio river and Mississippi river; and, if any, state what is the rule or custom of steamboats and flat-boats meeting, as to their manner of passing.

Answer. I have been boating on these rivers since 1824 up to

1850, and since have travelled considerably on these rivers, and the general custom has been, and is now, for steamboats to give the way for flat-boats to pass.

Question 8. In your opinion would there or not have been any danger whatever of collision between the steamer Doctor Robertson and the flat-boat, if the steamboat had landed against the Towhead 50 or 100 yards below the place of collision?

Answer. There could not have been any collision at all.

Question 9. Did you notice particularly the distance of the steamboat from the shore at the time of the collision, and can you state positively as to that?

Answer. I did notice very particularly, for I thought before she turned out she would strike the snag. She turned out to go between the snag and the flat-boat; the snag was about thirty feet from shore, and between the shore and the flat-boat.

Question 10th. Do you know the depth of water there was between the flat-boat and the bar on the Illinois, or how wide the channel is on that side?

Answer. The channel is very narrow between the bar and the Towhead: I saw it measured; there was four feet over the reef; that was the shallowest place at that time.

Question 11th. Where did you leave the steamboat Doctor Robertson on that trip?

Answer. I went ashore at Mt. Vernon, Indiana.

SCHYLER C. BARNETT.

Depo. of Alex. Ford.

Deposition of Alexander Ford:

1st question by counsel for the libellants. Please state your residence and occupation, and whether you expect to leave your home; and if so, how soon, and where you intend to go, and for what purpose?

Answer. I reside in Cincinnati, Ohio; I am a pilot on the river from here to New Orleans; I have been a pilot for three years; I expect to leave my home, as soon as the river breaks up, to go to New Orleans as pilot on the steamboat Switzerland: I have been on the river ten or twelve years.

2d. State what you know of the loss of machinery in a flat-boat in the charge of Ralph N. Douglass in the month of August last. If you saw the collision, state all the circumstances connected with it. State how the boats were navigated, and where. State what could each have done to avoid the collision. How was the flat-boat situated, with regard to Cincinnati Towhead? What connection had you with either the flat or the steamboat, or with Douglass?

Ans. I and Douglass got in company at Shawneetown bend; I

was piloting a flat-boat down for Dunn and Hale; I was behind Douglass, and so near to him that I could hear pretty much all that was said. Douglass had made his crossing over to Cincinnati Towhead and had eased off pulling, and was floating along; his boat was lying pretty near straight with the Towhead, about one hundred and fifty yards, more or less, above the foot of it, and I suppose about twenty-five or thirty yards from the shore; I could not tell exactly how far, but about that, as near as I could judge, being behind her.

The Dr. Robertson aimed to go on the starboard side of her, the right-hand side coming up, and I could not say for certain whether the steamboat struck Douglass's barge or not, but I think it was the barge which the "Robertson" had in tow that struck her. I was not near enough to see which it was. The consequence was that she sunk Douglass's boat and machinery, and I could not see that they used any exertions to avoid his boat. After passing a hundred yards or so, I threw over anchor and rendered Douglass all the assistance that was in my power, and by that time the Dr. Robertson had proceeded on her voyage. I did not hear anything said on either boat, there was such a confusion at the time of sinking—the men jumping off the flat-boat on to the steamer, and I had to pull out to avoid coming against them.

I think if the Robertson had stopped her engine and tried to have avoided it in time, they would not have come together. She could have gone outside of her; there was plenty of room: there was room enough for her to pass outside of me, and I was outside of Douglass. After they came together the steamer's engine was stopped, and as the flat-boat lay up against her with her machinery, they flanked in to the shore together.

I think the flat did not sink right down when she was struck, but as the steamer flanked in to the shore she drew the flat with her, a little nearer in to the shore than she was when she was struck. I don't know as Douglass could have prevented the collision; I suppose he had no idea but that the Robertson could pass him on either side. He could not have changed her position, for before he had any idea that the steamboat was coming into him, it was too late to do anything. If the steamer had stopped and backed he might have pulled more out into the river. It requires some time for a flat-boat to change her position—it requires some time before you can get them under headway; you can't pull them out of the way in a moment.

It is customary for steamboats to give way to a flat-boat when they get into a tight place. On that very trip, as I was going down, I met the "Telegraph" in "Bevay chute," in the narrowest part of it. She stopped her engines and just worked them slow in to shore, until I got past her. If she had gone ahead we could not have avoided a collision; they would have come together. This

place at "Bevay bar" is a very much narrower place than that at "Cincinnati Towhead."

I had no communication with the steamer Dr. Robertson, or with Douglass's flat, or with Douglass.

3d. How far could the steamer Dr. Robertson and the flat-boat have seen each other? What is there in the river at that place, either connected with the bars or other obstructions, to prevent a steamboat from seeing a flat-boat? At what time in the day did this collision take place? If in the morning, state what kind of a morning it was, whether clear or foggy, or dark.

Answer. I suppose they could have seen each other at the distance of a mile or a mile and half. The pilot in the pilot-house of a steamboat can see a flat-boat much further than those on the flat-boat can see the steamboat, the pilot-house on a steamboat being so much higher; the flat being so low, she cannot see over the bars. There is nothing in particular in the river at that place to prevent a steamboat seeing a flat-boat; there are some bars there, but they are mostly low bars. There is nothing there to prevent a steamboat from seeing a flat-boat in time to avoid a collision; the highest bar near where the collision took place is about a quarter of a mile below that place; that is a sand-bar about five feet high, I suppose, in low water. I suppose I must have seen the Dr. Robertson a mile off before meeting her. The collision took place, as near as I could judge, between eight and nine o'clock in the morning, on the eighth day of August, 1856. I am not certain whether the morning was clear or cloudy; there was no fog, nothing to prevent one's seeing up and down the river—no obstruction; you could see up and down the river.

4th. Please look at the map now shown you, drawn by R. N. Douglass, and state what you think of it as a representation of the river at the place of the collision—the channels, the bars, &c., their relative position, and of the point where the boats came together.

Answer. I think it is a very good representation of the river at that place, except that the distance between the two channels, d, e, f, g, and d, h, i, g, is represented a little too wide. In all other respects I think the map is a correct representation.

You misunderstood me in the above statement; I meant to say that the distance from the point d, to the point g, is represented too great relatively to the other distances—say from there to the coal mines. I do not think that the width between the two channels is represented as too great. The map I think is correct in that respect. I did not measure the water, but I put out a pole five or six feet long outside of my boat and could not reach bottom, and I was a considerable distance outside of Douglass; I think that there was water enough for the Dr. Robertson to go outside of us. On the bars below this place there was about

twenty-eight inches of water, and she had passed over them. I think it was a very careless piece of business; that is what I think of it. I mean a very careless piece of business on the part of the steamboat.

5th. State what assistance the Dr. Robertson or those in charge of her rendered to Douglass in saving his boilers and tanks, and those parts of the machinery that did not go down with the flat.

Answer. They rendered no assistance that I could see; they did not stay long enough; as soon as the men had got their trunks and things off from her, and jumped ashore, she went on. I sent a man with my skiff to Douglass, and with that he and his son and my man got the boilers ashore.

6. State which, if any, of your crew reside in this place, or near here.

Answer. None of them except Andrew Dougherty, who resides near Milford, in this State, about twelve miles from here.

7th. Where was Mr. Douglass's boat at the time of the collision with respect to the usual flat-boat channel at that stage of water?

Answer. Well, I should judge he was in the proper place for a flat-boat, in as good water as there was in the river.

8th. State what is the usage, if there is any, in respect to a steamboat's course when meeting a flat-boat.

Answer. In passing them, steamboats generally pass them so as to avoid coming in collision with them, taking either side which is most convenient and safe; they do not follow the rules that they do when meeting steamboats. They do whatever is necessary to avoid hitting the flat-boat, and to avoid injury to themselves and to the flat-boat. This is because the steamboat has power; and all the power that a flat-boat has, is four or five men to pull them. They generally have to float with the current.

ALEXANDER FORD.

Depo. of Wm. B. Edmondson.

Deposition of William B. Edmondson:

Question 1. State your age, residence and occupation.

Answer. Twenty-three years of age; residence Shawneetown; common laborer, farming and boating; I have been engaged boating at intervals for six or seven years.

2d. State what you know, if anything, in relation to a collision which occurred near the Cincinnati Towhead on or about the 8th day of August, 1856, between a flat-boat laden with machinery in charge of Mr. Douglass and the steamboat Dr. Robertson; if you saw the said collision, state what caused it, and the details of it.

Answer. I was on a flat-boat in charge of Alexander Ford, of Cincinnati; I went on board while lying at Sandy Ridge, near Shawneetown, where she had been lying four or five days for hands; she left there on the night of the 7th of August, 1856. When we

got to the Cincinnati Towhead we were fifty or one hundred yards behind the machinery flat-boat of Mr. Douglass. At the time of the collision the Douglass boat had made the crossing and was floating down about seventy-five or one hundred feet from the Towhead, nearly straight with the shore; the steamboat Doctor Robertson was running up the shore of the Towhead, and the collision occurred about two hundred yards above the foot of the Towhead. The Robertson was running up fifty or sixty feet from the shore when the flat-boat was struck; she sunk almost immediately. I heard the bell ring to back the Robertson when she was near about striking or had struck—I mean the bell to stop her. I don't think she backed a lick; she was under headway when she struck; those on our boat were noticing particularly; we thought there would be a collision. After the collision the Robertson dropped in to shore, and lay there a few minutes, and then went on up; we dropped down about one hundred yards below and anchored our boat, and the boys went out to get some boilers and boxes that had floated off from the sunk boat.

3d. How could the collision have been avoided by either party, if at all?

Answer. I don't think the flat-boat could have done anything to have avoided the collision. If the steamboat had run against the bank a few yards below, the flat-boat would have floated past without touching. The steamer might have gone clear to the left us, if she had turned out soon enough.

4th. What kind of a landing was there against the Towhead at that place and along down to the foot of it?

Answer. There was deep water all along the Towhead, and nothing in the way.

5th. What time in the day did the collision happen, and what kind of a day was it? How far could a flat-boat have been seen by the pilot of a steamboat on such a morning?

Answer. It was early in the morning; was a pretty, sunshiny morning; a flat-boat could have been seen a mile either way, either up or down; we had seen the steamboat a mile or more off.

6th. How far below Shawneetown did the collision occur, and are you or not acquainted with the river at that place?

Answer. It was about six or seven miles below Shawneetown; I am acquainted with the river at that place.

7th. What do you know, if anything, in regard to the subsequent recovery of any portion of the machinery sunk?

Answer. We went on down the river to New Orleans; I don't know except from hearsay of the recovery of any of it.

8th. What kind of a position were you in to see correctly the relative position and movements of the two boats?

Answer. We were all on the deck of our boat in a good position to see.

9th. What was the position of your boat in relation to the sunken boat at the time of the collision?

Answer. We were about one hundred and fifty to two hundred yards behind, and a little to the right.

10th. Can you state particularly the distance of the Doctor Robertson from shore at the time of the collision?

Answer. I cannot state the exact number of feet, but think she was fifty or sixty feet from the shore.

11th. Who else was on your boat at the time of the collision, who was looking at the boats at the time?

Answer. Alexander Ford, William Jeffries, Albert Ware, James Haney, John Walker and John Martin.

his
WM. B. ⊀ EDMONDSON.
mark.

Depo. of Wm. H. Jeffries.

Deposition of William H. Jeffries:

Question. State your age, residence, and occupation, and how long you have followed it.

Answer. I am twenty-three years of age; near Shawneetown I live; I am now engaged in carpentry, but I sometimes follow the river, and sometimes farming; have followed the river about every year, more or less, since I was seven years old.

Question. State what you know, if anything, relative to a collision on or about the 8th day of August, 1856, between the steamboat Doctor Robertson and a flat-boat laden with machinery, in charge of Mr. Douglass. If you know anything, state where it occurred, and the particulars of it; where were you at the time?

Answer. I was on Alexander Ford's boat, which was from seventy-five to one hundred and twenty-five yards behind the machinery boat at the time of the collision; I was standing at the steering-oar on our boat, and was at the time looking at the Doctor Robertson and the other flat-boat. When the Doctor Robertson was seventy-five to one hundred yards below the machinery boat, I remarked to some of the boys that she would run into her. I judged so from the manner in which the steamboat was running. I listened to hear a bell ring to stop or back her, which was before she struck; there was no bell rung to stop or back her, that I heard, until I heard the crash. The flat-boat sunk immediately. The flat-boat with machinery was floating along near about seventy-five to one hundred feet from the Towhead; she had made the crossing and straightened down; the Doctor Robertson was running up the shore, and, as I thought, tried to go between the flat-boat and the shore. I then told the boys to look—that I thought there would be a collision. At the time of the collision I think the steamboat was 80 or 85 feet from the shore. I cannot state par-

ticularly the exact distance. After she struck, the steamboat flanked in towards the shore, and lay there a very few minutes, and then went on.

Question. How could the collision have been avoided by either party?

Answer. The flat-boat could not have done anything, in my opinion; the steamboat could have run on either side of them. There is a good landing against the Towhead, deep water, and if she had gone against the Towhead the flat would have floated entirely clear of them.

Question. What kind of a day was it, and how far could a flat-boat have been seen on such a day?

Answer. It was about 8, 9, or 10 o'clock in the morning. It was what we call a clear morning; it was perfectly calm; there might have been a few clouds, but there was no fog whatever. A flat-boat could have been seen from the steamboat, on that morning, a mile or more. I think she could have been seen easily that distance.

Question. How far below Shawneetown was the place of collision? What kind of a position were you in for seeing the relative position of the boats, and are you acquainted with the river at that place, and how far was your boat from the steamboat at the time of the collision?

Answer. It was a few miles below Shawneetown. I was in a very good position to see the movements of the boats. I am acquainted with the river at that place; we were about seventy-five to one hundred and twenty-five yards from the boats at the time of the collision; our boat was above and a little to the right of the machinery boat.

his
WM. H. ⋈ JEFFRIES.
mark.

Depo. of Albert Ware.

Deposition of Albert Ware:

Question. State your age, residence, and occupation, and how long you have followed it.

Answer. My age is about twenty-three years; near Shawneetown, Ill.; I follow farming; have flat-boated two trips, one to New Orleans, and one to Napoleon, Ark.

Question. State what you know of the loss of a flat-boat laden with machinery, in the charge of Ralph N. Douglass, in the Ohio river, in the month of August, 1856, by collision with a steamboat. If you saw the collision, state where it was, and how the boats were navigated; state all the circumstances connected with it.

Answer. I was on board a flat-boat in the charge of Alexander Ford, and at the time of collision our boat was one hundred or one

hundred and fifty yards, more or less, behind the flat-boat laden with machinery. The boat laden with machinery was running down about one hundred one hundred and fifty feet from the shore, and nearly straight with it. I could not tell the exact distance. The Doctor Robertson was coming up, and, as I thought, wishing to go inside of the flat-boat—that is, between her and the shore. At the time of the collision I think the Robertson was from fifty to sixty feet from the shore, and was running. I heard the bell ring to stop her about the same time I heard the crash. The flat-boat sunk immediately; the steamboat then slid over towards the shore, and landed there for a moment, and then went on. We threw over anchor from our boat, and some of our men assisted in getting some boilers to shore. The collision occurred about six or eight miles below Shawneetown.

Question. What could have been done by either party to have avoided a collision?

Answer. If the steamboat had run in to shore, or near the shore, then the flat-boat would have floated past her; or, I think she might have gone outside of us. Our boat was drawing thirty-eight to forty inches; I think those on board the flat-boat did all they could.

Question. In what kind of a position were you for seeing the two boats?

Answer. I thought I had a full view of the collision, and the movements of the two boats.

Question. How far could the steamboat Doctor Robertson and the flat-boat have seen each other on that day; what time in the day did the collision occur, and what kind of a day was it?

Answer. I think they could have seen each other between a half mile and a mile at least. It was about 8, 9, or 10 o'clock; I do not recollect the exact hour. A very pretty, clear day; no fog at all.

Question. State what assistance was rendered by the steamboat Doctor Robertson in saving the boilers and boxes that floated off.

Answer. She rendered no assistance, to my knowledge.

Question. Where were you standing at the time of the collision, and was or not your attention particularly directed to the two boats?

Answer. I was standing on the deck of our boat, about the middle of it. My attention was particularly directed to the boats.

Question. Have you any interest whatever in the result of this case?

Answer. I have none whatever.

his
ALBERT ⋈ WARE.
mark.

Depo. of Jno. Walker.

Deposition of John Walker:

Question. State your age, residence and occupation, and how long you have followed it.

Answer. I am near twenty-four years old; reside near Shawneetown, Ill.; I am now engaged in farming, but have been engaged in boating, more or less, for the last seven or eight years.

Question. State what you know of the loss of a flat-boat laden with machinery, in charge of Ralph N. Douglass, near the Cincinnati Towhead, in August, 1856. If you know of its loss, state how it occurred; if by collision, state how the boats were navigated, and all the circumstances connected with it.

Answer. I was on Alexander Ford's boat; we fell in company with the machinery boat on the morning of the 8th day of August, 1856. At the time of the collision we were about one hundred yards behind, perhaps a little more; we had just made the crossing and had straightened down; the machinery boat was running about eighty or eighty-five feet from the Towhead, and about straight with it; the other boat came up that shore, and at the time of the collision her bow, I think, was sixty or seventy feet from the shore; her stern was a little nearer; she was pointed out a little from shore. I was standing on the deck of our boat, somewhere near the stage-plank, and was looking at the boats at the time; the steamboat was under full headway, and kept on so until she struck; we heard the crash distinctly where we were. She seemed to me to run right on without changing her course.

Question. What could have been done on the part of either party to have avoided a collision?

Answer. The steamboat could have either gone to the shore or run closer to shore than she was running, or she might have gone outside entirely of our boat; there was plenty of water there. I don't think those on the flat-boat could have done anything to have prevented it.

Question. What was then to have prevented her running closer to the Towhead, or to have prevented her landing against it?

Answer. I don't know of anything; there was good water all along there, and it was a soft, muddy bank.

Question. About what time in the day did the collision occur, and what kind of a day was it; how far could those on board the different boats have seen each other at that time?

Answer. About 7 or 8 o'clock in the morning; I do not recollect the exact time; it was a very pretty day; the sun came up clear; I think there were no clouds, and there was no fog. The boats could have seen each other a mile or two on that morning at that place.

Question. What were the movements of the Doctor Robertson after the collision?

Answer. After the collision I think she flanked over towards the

shore, and then went right on up the river. She did not stop to render any assistance.

Question. What kind of a position were you in for seeing the relative positions and movements of the two boats?

Answer. I was in a first-rate position to see the whole; was in full view of all of it and was noticing particularly.

Question. What do you know, if anything, in regard to the subsequent recovery of the machinery?

Answer. I do not know, as I went on down with our own boat.

Question. How much room was there in the Illinois side of Ford's boat for the passage of a steamboat drawing 28 or 30 inches water?

Answer. I do not know exactly, but think there was one hundred to one hundred and fifty yards of river on the Illinois side; I am confident of that.

Question. Have you any interest whatever in the event of this case?

Answer. I have none. I am not acquainted with the parties to it.

JOHN his ⋈ mark. WALKER.

Depo. of E. Dougherty.

Deposition of E. Dougherty:

Question by libellants. State your residence, and when you expect to leave this district, and for what purpose.

Answer. I reside at present in Cincinnati. I expect to leave this district in a few days; perhaps to-morrow. I am going West, to run on a steamboat between Keokuk and Rock Island, on the Mississippi river; I do not know that I shall ever come back again; I expect I shall remain there altogether.

Question 2d by same. What do you know of the sinking of a flat-boat piloted by Ralph Douglass, and loaded with the machinery of the "Niles Works," being sunk near the Cincinnati Towhead, in the year 1856, by the st. bt. Doctor Robertson? If anything, state where you were and how far from the boats; state all you know about it. How far was Douglass's boat from the Towhead, and what opportunity had the steamboat to pass Douglass's boat?

Answer. I was on a boat of Captain Alexander Ford, which was about one hundred and twenty-five yards from the Cincinnati Towhead and about fifty yards from the flat-boat of Douglass, with the machinery of the Niles Works. It was in the summer of 1856; I do not know the exact day. Douglass's boat was floating down straight with the Towhead, and the steamboat Dr. Robertson came up, and appeared as if she was going between the two flat-boats. She changed her course and attempted to go between Douglass's

boat and the shore; Douglass's boat was about forty or fifty yards from the shore. The steamboat kept on until she struck the flat-boat, and was going at the time she struck her; the flat-boat sunk immediately. The steamboat could have passed the boat of Douglass by running along in close to the shore, or she could have gone between our boat and Douglass's boat; there was ample room to pass either way. There would have been no difficulty in running along the Towhead, as there were no snags there; she could have stopped below against the Towhead; she could have stopped before she got to the flat-boat. Her engines were not stopped when she struck; I could see the revolutions of the wheel and the escape of the steam.

Quest. 3d. Why was your boat farther out in the river than Douglass's boat?

Answer. I don't know why she was farther out, unless it was that we could run freer; sometimes we would pass his boat and be ahead, and sometimes their boat would be ahead of us. We had made the crossing just behind Douglass's boat, and had straightened down the river; it would be necessary for us to keep some distance apart in order to pass in the way; she did not pull out on account of the steamboat.

Question 4th. What could the flat-boat have done to have avoided the collision?

Answer. I don't know that she could have done anything; she had no time; it takes some time to turn a flat-boat; they were pulling out from the shore at the time that they were struck by the Dr. Robertson. They were pulling on the side oars, and Douglass was at the steering oar at the time, directing her course, when she struck the stern of the flat-boat, swung in towards the Towhead, that brought her in nearer to the Towhead than it was before. Douglass was holding the steering oar in such a way as to turn the bow out from the shore; he was turning the bow out.

Quest. 5th. How long had you seen the Dr. Robertson before the collision occurred?

Answer. About three quarters of an hour, I suppose; we saw her for a long distance.

Cross-examined.

Quest. 1st. What distance was the boat you were on from the Dr. Robertson at the time of the collision?

Ans. Well, I suppose she was about fifty or sixty yards right straight across.

Quest. 2. Were you above or below the steamboat at the time of the collision?

Answer. We were above.

Quest. 3. Were you above or below the flat-boat that was sunk?

Answer. We were above.

Quest. 4. How far was the steamboat from the shore?

Answer. I do not know how far she was after she struck the flat-boat; she might have been ten or fifteen yards from the shore.

Quest. 5th. In what capacity were you engaged on Capt. Ford's boat?

Answer. I was cooking for him.

Quest. 6. Were the hands on Capt. Ford's boat engaged at the sweeps at the time?

Answer. They were not.

Quest. 7. Were you on the upper deck of the boat?

Answer. Yes, sir.

Quest. 8. How came your attention to be called to the position of the steamboat and Douglass's boat?

Answer. Our pilot said that there would be a collision if they did not change their course, and that was why my attention was directed to it.

Quest. 9. Don't you know the fact that when the collision took place, that the steamboat was so close to shore that persons could step off of her to shore?

Answer. No, sir, I don't think they could until after she struck; after she struck she swung right in to the shore.

Quest. 10. Did the flat-boat sink on the outside or the inside of the steamboat?

Answer. She sunk on the outside.

Quest. 11. In what direction was the flat-boat pulling at the time of the collision?

Answer. She was pulling out from the shore.

Quest. 12. Did you notice whether the steamboat was in motion at the time of the collision, and whether the engines were working?

Answer. Yes, sir, the boat was in motion and the engines working.

Quest. 13. How came you to notice the steamboat and flat-boat at the same time, and the operations on both boats?

Answer. Well, I saw the steamer strike the flat-boat, and I could hear the wheels and the steam working. It was after she struck that she rung her bell to stop.

Quest. 14. Then you only judge that the steamboat had not stopped from hearing her?

Answer. After she had struck, I looked around, and she had not stopped by that time. You can hear a boat, if it is still, five miles off, working her wheel and the escape of steam, when you cannot see her at all. I did not see the motion of the wheel, but merely judge by hearing, that she was in motion; I heard them ring the bell to stop her, and that was after she struck.

Quest. 15. Did your boat land immediately after the collision?

Answer. No, sir; we did not land, but we dropped our anchor.

Quest. 16. In what position were you in regard to the steamboat at the time you dropped your anchor?

Answer. We were a little below the steamboat at that time.

Quest. 17. Did the steamboat remain in the same position for any length of time?

Answer. She did not remain there for five minutes; she picked up a boiler, and then proceeded on her way up.

Quest. 18. How far was she from the wreck when she picked up the boiler?

Answer. I suppose she was about ten yards below the wreck—she back right off from it.

Quest. 19. Was she tied up to the shore?

Answer. No, she did not tie; at the time she picked up the boiler she was not lying in to the shore—she was floating.

Re-examined.

Quest. 1. In the answer to your eighth interrogatory you say that your attention was drawn to the boats by your pilot's remarking that there would be a collision if they did not change their course. To whom did he refer when he said, "if they did not change their course," and how do you know?

(Objected to by counsel for defendant.)

Answer. He referred to the steamboat; I knew he did not refer to the flat-boat, because she could not do anything about it. If she had turned in, it would have been right in the way of the steamboat.

E. DOUGHERTY.

Depo. of Wm. P. Lamoth.

Deposition of William P. Lamoth:

Quest. 1. State your residence and occupation, and when you expect to leave this city.

Answer. I reside in Alton, Illinois; I expect to leave this district to-night; I am a steamboat man, and have followed the business for the last fifteen years as captain.

Quest. 2. What is the usage of steamboats in passing flat-boats on the western rivers?

Answer. It is the usual custom for steamboats to examine the position of flat-boats, and to take the best possible course to avoid them, to go on either side, that seems best. If danger is in any way apprehended, it is the custom to ring a slow bell, and run easy. If there is danger apparent, the boat should land or stop entirely, and let the flat-boat pass by. If they are coming into close quarters, they ring a slow bell, and proceed very cautiously. The flat-

boat ordinarily does not use any exertion in getting out of the way farther than to place themselves as straight with the current as possible, and occupy as little room as possible.

Cross-examination waived.

W. P. LAMOTH.

Depo. of G. W. Ford.

Deposition of George W. Ford:

1st question by counsel for the libellants. Please state your occupation and residence, and when you expect to leave your home, and for what purpose, and where you intend to go.

Answer. I am a steamboatman—a boatman of all kinds; I have occasionally got up sunken boats. My regular vocation is that of steamboat clerk and captain. I reside in Newport, Kentucky; I shall leave for home this evening, but as soon as the river breaks up, I expect to go to St. Louis, to go on a boat there; I expect every day to get a despatch to take me to St. Louis.

2d. State what you know of the sinking of a flat-boat loaded with machinery by the steamboat Doctor Robertson some time last August, about six miles below Shawneetown, on the Ohio river; what you know about the river and channels there, and how much of the wreck was recovered.

Answer. I don't know anything in particular about the sinking of the boat, for I was not there. Some time in August last I was informed by the president of the "Niles Works" that they had a boat sunk down near Shawneetown, loaded with machinery, bound south. He asked me if I knew whereabouts the bell-boats were, and whether they could get up to where the boat was wrecked. I informed him to the best of my ability where the bell-boats were, and told him that I did not think it possible for any of them to get where the wreck lay on account of the low stage of water. I am acquainted with these bell-boats, and know that they draw a good deal of water. The president of the "Niles Works" said that it placed them in a very awkward position; that they could not duplicate the machinery, and it would be of very great damage to them on account of not complying with their contracts. I told him that I thought the machinery could be raised without the assistance of a diving-bell boat; that I had raised one or two flat-boats before myself, and at his suggestion, after conversation with the underwriters interested, I made them two propositions to raise the wreck or to recover the property; one at thirty per cent. of the invoice price of the goods saved; the other to charge them for my own services, the services of four divers and the carpenter, at forty-one dollars per day; the underwriters paying all contingent expenses, such as travelling expenses, board and lodging, and hire of flat-boats, and transportation of rigging. We were to be paid from the

time we started from Cincinnati until we returned to the same point. The latter proposition the underwriters accepted.

The next morning after the acceptance of this proposition, I started with my crew and rigging by rail to Evansville, where we lay one day waiting for transportation. Finally I purchased a flat-boat, for which I paid seventy dollars, and a skiff for ten dollars. We couldn't get any steamboat. We proceeded on the flat-boat, taking along the skiff, down about six miles below Shawnee, where we found the wreck. We resorted to this mode of conveyance because there were very few steamboats running, and after waiting twenty-four hours I thought I would try another way to get down.

I found the wreck near Cincinnati Towhead; the stern within thirty-five feet of the bank, and in eighteen feet water; the boat lying head quartering down the stream, out into the river, her bow in twenty feet water, the middle of the boat in twenty-two feet water. I also found the crew of the sunk flat-boat there watching the wreck. I procured in addition to what I had two flat-boats, box-boats they are termed, from the Mulford Coal Company, with which I proposed to raise the sunken boat, and for which I was to pay the Mulford Coal Company a certain charter price, as is set forth in their bill rendered by me to the underwriters. I think it was five dollars a day for each boat. I proceeded at once to raise the machinery contained in the sunk boat. In a few days I succeeded in lightening the boat sufficiently to raise her. I found her broken in two in three places, and entirely unseaworthy, and incapable of being repaired. I then chartered for a hundred and twenty-five dollars one of the box-boats that I then had loaded with machinery, and in connection with the boat purchased at Evansville, also loaded with the machinery recovered, I started them in the care of Captain Douglass to Cairo, and with my party returned immediately by steamboat and railroad to Cincinnati, having been gone twenty-three days, for which the underwriters paid me in full, as per contract spoken of above, together with all contingent expenses, as per bills by me rendered. I also shipped by river the rigging that I had taken with me from Cincinnati, on which there was a freight bill of $14 00.

I look upon thirty per cent. as the minimum charge for recovering property lost in the river, and have paid as high as sixty for my own property in jeopardy.

As to the river where the boat was sunk I could see no possible cause for the collision, other than gross negligence or incapacity on the part of the steamboat, there being a channel depth of from seven to twenty-two feet, for a width of from three to five hundred yards, and at the stage of water existing at the time boats couldn't run drawing over three feet of water. In open daylight a boat could be seen a mile at least. From the wreck I could see a steam-

boat a mile and a half both ways up and down the river, and be far within bounds then; and a steamboat could see a flat-boat at least that distance. There were no bars, nor anything, intervening to prevent their seeing the flat; from the pilot-house they could see over all the bars there. I would also state that there was some of the machinery missing that I could not find in the boat, consisting of sheet-iron and copper work, and boxes. I believe that these were missing from the flat; that they were in the bill of lading; I compared the property recovered with the bill of lading and these articles were missing. They were not in the sunk flat; they had floated out and we could not find them; I found the boilers ashore when I got there, and a box and four copper tanks.

3d. You have stated the depth of water where the flat-boat was sunk, and also the depth and width of the channel; will you state how you know these facts—did you make any measurement? If so, state the result of it.

Answer. The depth we measured; the width was from judgment, and having been raised on the river, I consider myself a pretty good judge of distances on the water.

4th. Have you seen the map drawn by Captain Douglass? If so, what do you know of the channel marked d, e, f, g, and of the use of that by steamers at the stage of water of thirty inches in the river, and what you know of the use of the channel marked d, h, i, g, by steamers at the stage of thirty inches?

Answer. I have seen the map referred to, and look upon it as a fair, though a rough, representation of the relative position of the channels and the bars at that place in the river. I look upon the Cincinnati Towhead as relatively longer than the Towhead represented on the map. While we were encamped on the Towhead, at which time there was a channel depth of less than thirty inches, the steamer invariably used the channel marked d, e, f, g, on the map. She passed up and down three or four times while we were there, and I noticed her particularly—that every time she took that channel, and that the other boats varied from the channel d, e, f, g, to the channel d, h, i, g; they went anywhere between these two channels. No two boats ran across the bar alike. There was about a foot more water on the bar marked "shoal water" on the map than on the other bars that the boats had to cross to get there. After the boats get above the place marked "shoal water" they incline in more towards the Illinois shore than it is laid down on the map.

5th. You state that you got up portions of that machinery; state how it was done, and what are the difficulties and hardships attending that sort of service, and how it is generally paid.

Answer. It was done by naked diving, without diving-bells or submarine armor. It is extremely difficult to find a person to go down to that depth under the water, and it produces a spitting of

blood, bleeding at the nose and ears, even upon habitual divers, and it had that effect in this case; and as for myself, double the amount paid would not induce me again to undergo the same hardships.

The men engaged in this service are generally paid from five to twenty-five dollars a day, according to the depth of water. One of the men that I had made ten dollars a day diving for boulders in seven or eight feet water. When they first commenced diving, the regular divers in this case at first refused to go, on account of the depth of water; they came up with their eyes bloodshot, and the blood gushing out from their noses and ears, and complained of great pressure on the brain, and I could only induce them to dive by diving alternately with them myself.

6th. You say the flat-boat was broken in two or three places; could you tell where the steamboat Doctor Robertson's barge struck it, and what sort of a blow it was? State any facts going to show what kind of a blow it was, and where it was.

Answer. It was evident to me that she was struck in the bow, and that the blow was sufficient to break the larboard gunwale, and break off about thirty feet of the bow of the flat-boat. It was merely hanging on by the splinters when we raised the boat to the surface. It was an ordinary flat-boat gunwale, ninety-five feet in length, spliced in the middle, about two feet deep, and about eight inches thick.

It was evident that the steamboat had headway on her to make such a break. A flat-boat running against a bank with a four-mile current, wouldn't cause such a break. The current there at that stage of water was about a three-mile current.

7th. Where did you find the flat-boat as to the extreme low water channel; and what was there on or near the shore just above the flat-boat?

Answer. She was at about the usual flat-boat low water channel, rather nearer to the shore, one part of her, than they usually run. Her stern, I suppose, was a little swung in towards shore by collision with the steamboat. The flat-boat was entirely worthless; I offered it for five dollars, and could not get that much for it.

There was a large snag about half way between the stern of the flat and the shore, just above the stern of the flat, and about fifteen feet from it, and the same distance from the shore.

8th. You say that the stern of the flat was thirty feet from the shore. Was the distance measured, or have you any means of knowing the distance definitely?

Answer. I know it from the fact of having flat-boats eighteen feet in width between the shore and the flat-boat that was sunk, reaching from her to the shore, and diving from the outside boat, which was some six feet over the sunken boat.

9th. Have you made out a bill of items of all your expenses and

charges on account of getting up the portions of this machinery which you actually raised and recovered? If so, present it and explain it.

Answer. I have, and presented the same to the parties by whom I was employed. Here is the bill marked by me, (A,) and identified by my signature on the margin, which I make a part of my deposition. Nearly all the items explain themselves. The item marked "labor" in the margin is made up of amounts paid to certain individuals, whose names are given with the respective amounts paid to each carried out opposite to each name, for labor done in raising the machinery, procuring timber, and other necessary work. The item entitled "blacksmithing" was for repairing chains broken, and making hooks, used in raising the machinery. The item entitled "board of Douglass and men," was a bill that accrued previous to my arrival at the wreck against Douglass and his men, who were there to protect the property. I paid this bill to prevent the property being attached. Swingle's bill of "sundries" was for timber, hauling of the same, provisions, and horse-hire. The horse was used by me in going to and fro between the Mulford coal-banks at Caseyville and the wreck, to procure boats, supplies, &c. The two hundred and seventy-five dollars ($275) paid to the Mulford Coal Company for barge hire is made up of two items, one of $125 for use of barge on which to convey the machinery recovered to Cairo as per my agreement; the balance was for the use of two barges or box-boats used in raising the machinery. I would state that there was nothing procured that was unnecessary, and everything was procured at the cheapest rates at which they could be had; that I boarded myself and hands myself. We lived in a tent on the island, on bread, bacon, and coffee; that was our invariable bill of fare. I would say further, that, owing to my intimacy with the superintendent at the coal-banks, I was afforded many facilities without charge, which to another would have cost a round sum, such as the use of chains and other rigging. The coal-banks were six miles below the wreck. In reference to the first item in this bill, I have already stated that I would not do the work again for double the amount. Three of my men were taken sick soon after their return; one of them is still sick, and the others have barely recovered; and I myself suffered from oppression of the brain for more than a month after I was through with the job. In this connection I would state that my usual salary as captain or clerk is from two to three hundred dollars per month, and that I look upon the cost of raising this machinery at fully twenty-five per cent. below the ordinary cost of doing the same work. As to the bell-boat subsequently employed I had no knowledge, it being a temporary affair gotten up for a special occasion, and my not having been upon the Ohio river subsequent to the breaking up of the ice in the spring previous. I do not think that

the insurance companies had any knowledge of this bell-boat, or of its abilities, at the time that I was employed. My bill was paid by the underwriters. The president of the "Niles Works," Captain Henry A. Jones, advanced me three hundred dollars before I started. I gave credit on the bill I rendered to the underwriters for this three hundred dollars. All the items in the bill, marked A, were paid by me except the first.

GEO. W. FORD.

A.—*Ford's Bill.*

Ford's Bill.

The Niles Works and the underwriters in ac. with G. W. Ford, agent.

(A.) G. W. Ford.

Sept. 5.	To 23 days, *a* $41 per day, as per agreement...	$943 00
	drayage on rigging to express office	4 35
	R. R. passage of party to Evansville.....	48 00
	dinner at Terre Haute.....	2 50
	omnibus hire.....	1 50
	express charges on rigging.....	37 60
	cooking utensils and tin-ware.....	6 85
	hombrook for rigging.....	36 77
	flat-boat bo't of Weyor at Evansville.....	70 00
	skiff " " "	10 00
	board at Pavillion Hotel	16 50
	stores (Evansville).....	28 68
	hardware (tools, nails, &c.), Evansville	4 35
	towing boats from mines to wreck.....	30 00
	stores at Caseyville.....	17 80
	labor: Jacob Pence 38, Wm. Cunningham 15	53 00
	" Wm. Miller 14, C. Casey 16	30 00
	" H. Swingle 6 25, John Swingle 6 25	12 50
	" Geo. Martin 6 25, J. A. Williamson 7	13 25
	" James Graham 2 50, John Gilmore 3 75.....	6 25
	" John Barbour 5, John Thompson 6 25	11 25
	" H. Ayers 9 62, P. Acker 3.....	12 62
	blacksmithing 7 50, meat 1.....	8 50
	board of Douglass and men	30 00
	Swingle's bill—sundries.....	23 97
	Mulford Mines for barge hire, all.....	275 00
	st. bt. passage of party to Evansville.....	25 00
	hotel at Evansville	6 50
	R. R. passage of party to Cincinnati.....	48 00
	omnibus.....	3 00
	dinner at Terre Haute.....	3 00

Gave Douglass to go out with, to be accounted for by him		$20 00
		1,839 74
Pr. contra:		
By one diver, 14 days, *a* $4	$56 00	
am't rec'd from Capt. Jones	300 00	
am't proceeds two drafts, sight	625 00	
		981 00
		858 74
Cr. by am't p'd F. Stein		327 00
C. and E. E.		531 74
Fr't on rigging to Cin'ti, T. Shubrick		14 00
		$545 74

Cin'ti, Sept. 16, 1856.

Rec'd payment,

GEO. W. FORD.

This is the paper, marked A, sworn to by G. W. Ford, and made part of his deposition taken before me on the 27th of January, 1857, in the case of The Niles Works vs. St. Bt. Dr. Robertson pending in the U. S. district court for the district of Kentucky.

A. R. DUTTON, *U. S. Commissioner.*

Depo. of J. H. Farrell.

Deposition of John H. Farrell:

1. Question by counsel for the libellants. Where do you reside; what is your occupation; how soon do you expect to leave this place; and where are you going, and for what purpose?

Answer. I reside in Elizabethtown, Hardin county, Illinois, more than two hundred miles from Frankfort, Ky.; I expect to leave here to-morrow evening, and am going to Nashville as pilot on the steamboat "76;" her regular tract is between Cincinnati and Nashville; I have been a pilot on the Ohio river for a little better than two years now; I have been on the river steadily for about five years.

2. Do you know the river channel, islands, bars, and crossings, at Cincinnati Towhead, in the Ohio river, and the usual custom of steamboats in meeting flats? If so, state where the usual channel is, just after crossing the shoal water above the Towhead, at a thirty-inch stage. Please look *a* map now shown you, being a copy of a map drawn by R. N. Douglass in this case, and state what you think of it as a representation of the river at this place. How wide is the channel opposite the Towhead where steamboats can run at that stage?

Answer. I do know the river at that place, Cincinnati Towhead, and the channel, bars, islands, &c. The usual custom for steamboats meeting flat-boats is to give the flat-boat her downward course. A steamboat gives way to a flat-boat. In a doubtful or difficult place it is the duty of a steamboat to back out and give place to the flat-boat. If she sees a flat-boat in a tight place, it is her duty not to go there until the flat-boat gets through. *I* passing a flat-boat, we take the side of her to give her the most room we can, and to let her pass safe. We do not follow the rules that are laid down in passing steamboats; we use our own judgment in passing flats for their advantage.

The channel of the river is down close to the side of the Towhead—that is, the main channel at that place—from fifty to one hundred feet from the side of the Towhead; they run from fifty to one hundred feet out from the Towhead; the channel there is from two to three hundred feet wide where boats can run, but they usually run nearer to the Towhead, within from fifty to a hundred feet; this is the case at a thirty-inch stage of water; I never knew any shoal water just opposite the Towhead; I kept a woodyard there, just at the foot of the Cincinnati Towhead, several years ago; I kept it for fourteen months; this map gives a very good representation of the river at that place; several years ago, when I kept a woodyard there, the river channel used to run in the course marked on the map d, e, f, g, but it has changed since; boats now, at an ordinary stage, when drawing 3 or 3½ feet of water, run around in the old channel—the bar channel.

3. State what there is there to prevent a steamboat running right up against the side of the Towhead, or on the other side against the bar, and stopping until the flat-boat should pass, if there should be any difficulty.

Answer. If there is anything there I don't know it; he can land against the Towhead at any stage of water, and he can run up against the bar on the other side.

4. State what is the custom of flat-boats in meeting a steamer; what is it their duty to do, and what does the steamer do?

Answer. Their duty is to straighten themselves directly straight in the river, and ease oars, and let the steamboat do the figuring, if there is any to be done. The flat-boat does not attempt with her oars to get further out or in, but just straightens herself and keeps straight with the channel, and eases oars. It is the place of the steamer to keep away from her.

JOHN H. FARRELL.

Depo. of Joseph Ford.

Deposition of Joseph Ford:

1 question. State your residence and occupation, and how long you have followed it, and whether or not you expect to follow it

during the coming year or two. Where and to what extent do you expect to be absent from home?

Answer. I reside in Newport, Campbell county, Kentucky; I am a steamboatsman, and have flat-boated a good deal; I have been engaged in boating since 1819, with the exception of three years, 1850, 1851, and 1852, when I was in California; I suppose during that time I have flat-boated about twenty years; I have been steamboating since August, 1853; I expect to be running the river, and to be absent a considerable portion of the time during the coming year. I have been engaged the whole time in the Ohio and Mississippi rivers, between here and New Orleans, and New Orleans and St. Louis.

2d. What is and has been the usage of meeting by flat-boats and steamboats; what is the usage of each as to efforts to avoid the other?

Answer. Where the channel is narrow steamboats very often stop and let the flat-boat pass, and if there is any probability of a collision between them the steamer usually backs; all the flat-boat does is to place herself in a position to take up as little room as possible, and hold herself steady; that is all she can do. I have often, in steamboating, sheered out on a bar to avoid a flat-boat. The general rule is, for the flat-boat to keep her course, and for the steamboat to do the dodging.

3d. Do you know the river at the Cincinnati Towhead; if so, what, if anything, is there to prevent an ascending steamboat from dropping in under the Towhead, or from landing against it; what was there at the time of the sinking of the flat-boat at that place by the Doctor Robertson?

Answer. I do know the river at the Cincinnati Towhead; there is nothing in the way at all of an ascending boat landing either at the foot of the Towhead or anywhere against it; it is deep all along the Towhead, and tolerably deep at the foot of the bar; I quit running there in June, 1856, and did not run again until November. The water there is very good; there is a bar there, but the water is not as shoal as in a great many other places; it is not by any means a difficult place.

4. Is it not usual for steamboats to do everything they can to avoid the collision, and do all the manœuvring, leaving the flat-boat to float?

Answer. Yes, sir, that is the usual custom, and steamboat pilots expect those in charge of flat-boats to hold them steady with the current, and pass on straight.

JOSEPH FORD.

Depo. of Samuel Brickell.

Deposition of Samuel Brickell:

Question 1 by proctor for libellants. State your residence and

occupation, and how long you have followed it, and when you expect to leave the district. Are you or not acquainted with the navigation of the river at the Cincinnati Towhead on the Ohio river; if so, how is it at that place?

Answer. I reside in Newport, Kentucky; am a steamboat captain and pilot; for the last few years I have acted as captain mostly, though I have always been licensed as pilot, and pilot my own boat. I have been engaged in steamboating on the Ohio and Mississippi rivers about thirty years. I expect to leave here for New Orleans in about ten days. I am acquainted with the navigation of the river at the Cincinnati Towhead; there is good water all along down the Towhead. The Towhead is a soft bank; there is no danger whatever in landing against it; I have never had any difficulty there in navigating.

Quest. 2. What is the usual custom for steamboats or flat-boats meeting or passing on the Ohio river; what is done by each to avoid the other?

Answer. It has always been customary with me, and with all other steamboatmen, to avoid the flat-boat some way or other; we never expect a flat-boat to get out of the way of a steamboat; the steamboat always does the dodging, and even sometimes stops and backs to avoid them. The reason of it is, that a flat-boat is unmanageable, and only floats along with the current. The most they can do is to straighten with the channel so as to occupy as little room as possible, and that is the custom where it is a close place in the river; though where there is a full open river they do nothing.

SAM. BRICKELL.

Testimony of witnesses on the part of the libellants examined in court, taken down in writing, settled, and made part of the record.

Testimony of R. N. Douglass.

Testimony of Ralph N. Douglass:

He was the master of the flat-boat, and freighted the machinery for the Niles Works. When he had got down the river as far as below Shawneetown he saw the steamer Doctor Robertson coming up; he could see some distance down the river, perhaps two or three miles; he had crossed over the riffle at the head of the Cincinnati Towhead; the steamer had crossed over below, coming up on the Kentucky side. The flat-boat was straigntened out down the river next the Kentucky shore, floating with the current, and getting nearer with the current to the Kentucky shore; the steamer also held up next to that shore; this was against the custom of the river; the steamer should have held out of the current, and given room to the float-boat to pass down inside next shore, as the steamer can be managed more easily.

The steamer had a lighter or barge alongside on her outside, and the steamer still holding in to shore; this lighter struck the flat-boat bow end and broke in the siding and gunwales for thirty feet, and pressed the bow of the flat-boat under.

The flat-boat swung around, stern out, and sunk immediately. The hands got off the flat to the boat, and then to the shore; everything sunk at once, except such things as were loose and could float. This happened at 8 o'clock a. m., August, 1856. Witness is a flat-boat pilot, and has been so for twenty years.

The diagram of the river attached to his deposition being shown to him, he said he had made it and it was correct.

It was deep water for seventy-five yards outside of the flat-boat where the collision took place; he measured the water afterwards.

When he first saw the steamer she was two miles off; she could be seen for a long way. In the channel the water was twenty-two feet deep, and the deep water extended seventy-five yards towards the bar, so as to give the steamboat plenty of room.

The flat-boat was lying straight up and down the river. He could see the steamer very well as she was approaching, and he could see nothing done to avoid a collision; he saw that the steamer was held straight up the river, and she run so strong that she run into the flat-boat for thirty feet.

The flat-boat was loaded with valuable machinery, shipped by the Niles Works. He staid by the boat with two hands for ten days before Captain Ford came; they then staid about thirty days longer in saving what they could. It was very hard work; they had to dive down unto the water and draw up the machinery with a hook and rope. He used two barges and a windlass in raising the wreck and machinery. Captain George Ford *superinted* the machinery for this purpose. A submarine apparatus could not be got there, owing to the low water. The machinery wrecked was valuable; may be worth $20,000. The bill of lading shown to witness contains a true statement of what was on the boat; what was saved is checked off in the bill. He observed, whilst he was engaged on the wreck, that ascending boats run outside—that is, between the wreck and the Illinois shore, and that was the regular channel; the river, perhaps, had swelled a little.

When the collision took place they were half way down the channel, alongside the Towhead, and perhaps seventy-five or one hundred feet off; the current was, perhaps, two miles an hour; when he feared a collision he endeavored to raft the flat out, using the bow and stern oars, but the steamer was then so close that it did no good.

The steamer was in the wrong place; steamers always give flat-boats the way; in running bars and bends flat-boats should have the shore, especially flats, which have not force to get out of the way.

The current coming from the Illinois shore set the flat in to the Kentucky shore, and when the collision took place they were floating down with the current. The barge run over the flat-boat, broke off the siding and gunwales for about thirty feet, and pressed out the bottom; a mere drifting would not have sunk the flat-boat.

Cross-examined.

There were two other flats coming down behind; they were both just coming over the bar, and they were not on side of him, he does not think, and were coming and would have come into the same position with his boat; he dropped over the reef at the same place as the other two; the other two flat-boats were one hundred and fifty yards behind him; there was a snag in the water; it laid about twenty feet from shore, near the Towhead, and after the flat-boat swung around and was sunk, lay directly above the stern, about twenty feet; it was part of a tree with the root down; the steamer could not have passed between the snag and the shore. Does not know what the lighter was loaded with; thinks she was decked over; could not say whether or not she was loaded with cotton.

The steamer was shoved in by the collision to the shore; the lighter ran into the bow of the flat *and* for thirty or forty feet, and pressed the stern in.

The flat-boat was a No. 1 boat, 95 or 96 feet long, poplar gunwales and siding, oak cross-ties, streamers and bottom; the boat was an open one, and the machinery on board could be seen.

In crossing over from where they commence crossing to the Towhead, you run about the width of the river, with the slope down added; the steamer was in sight two miles.

Steamers coming up from Curlew bend leave the point, stand over to Saline Towhead; then up, until opposite to the point where the collision took place; then up and cross over to the Illinois shore. After leaving the Saline Towhead it was not necessary for the steamer to hug the shore; the steamer could have gone outside. The flat-boat was one hundred and fifty yards below the bar; the steamer could have passed outside and could have avoided the other boats.

A flat-boat must run in the current; under the reef there was water, but it was slack; the current was inside.

The other flat-boats pulled out after the collision; they were one hundred and twenty-five or one hundred and fifty yards behind. The practice is for steamers to avoid flat-boats. The steamer had been running up the Kentucky shore, perhaps one mile, and came inside the flat-boat.

He put up his sweeps to rest his men after the pull in crossing. He had no business to use his sweeps to get out of the way; he tried

to raft out; he made several strokes, but it did no good: then he was too near the steamer. If he had used only one sweep it would have thrown the flat-boat broadside, and she would have been run over by the steamer. He had before this ceased to use his sweeps, when the flat-boat straightened. The flat-boat was 95 feet long, drew 23 inches loaded light, gunwales and rake not covered by the water. The steamer was a pretty fair sized stern-wheel boat; drew perhaps 28 inches. She was not stopped when the collision took place. The flat-boat sunk instantly; the hands jumped off on the steamer.

The collision was at least ninety-five feet below the snag: if the steamer had kept her course inside the flat-boat, she might have struck the snag. The boat came with great power: don't know whether the boat was backing or not: there was not enough force in the current to break the gunwales by drifting. There was three and a half or four feet of water on the crossing; the flat-boat drew 23 inches; supposes the steamer drew 24 or 28 inches. Between the dotted line and the point of the Towhead, as you get near the shore, the water was deeper. The reef comes up to about the head of the Towhead.

Second Examination.

He said the steamboat might have stopped her engines, but she had not stopped her force; she was coming head on; she was not fastened, and was *was* not fastened afterwards, nor when she went out. After the collision the steamer was still—it was but a short time after the collision that he went ashore. He stepped out from the gunwale to shore; the bank was shelving. In getting out to the up, they would have to climb up twenty feet.

The flat-boat had bow and stern oars and sweeps. After passing the bar, they threw the flat-boat out, and then held her in, and straightened down the channel.

Cross-examined.

The bank was twenty feet high—it may be not so high, it was in benches, and willows along on the top of the bank.

Testimony of Julian Douglass.

Testimony of Julian Douglass:

He is a pilot, and resides in Cincinnati; has been a licensed pilot two years next December. He was second pilot on the flat-boat; was on the flat at Cincinnati Towhead when the collision took place; they had just made the crossing above the Towhead, and when they were straightened out alongside the Towhead, about seventy-five or one hundred feet from shore, the collision took place. This was on the 8th August, 1856, about 3 o'clock a. m.

Witness described diagram to the court; said it was correct.

Those on the flat-boat could see the steamer two miles below; thinks those on the steamer could see the flat-boat at least a mile; when the collision took place, witness does not know whether the steamer stopped or not; she had headway. The bow of the barge struck the larboard bow of the flat-boat; run upon it thirty or forty feet; pressed the flat-boat down, which swung around under the steamer. This was on a clear day, and there were no obstructions to seeing.

The flat-boat started from Cincinnati, loaded with machinery shipped by the Niles Works; thinks the list shown him was a true one. From the Towhead to the bar is three hundred feet; the water is deep for perhaps two hundred feet, but does not know exactly—never measured it.

It is the custom observed by steamers to give way to flat-boats. Nothing could have been done in this case by the flat-boat to avoid a collision.

Cross-examination.

There was a snag in the river about twenty feet from the Towhead; the snag was one hundred feet above the bow of the steamer when the boats struck. Does not think the boats swung, because the steamer was against the bank; after the collision the steamer drifted against the shore; she was not against the shore when the collision took place. Witness jumped off on to the steamer, and waited until the steamer struck the shore. The steamer had no line to shore; she was about four hundred and fifty tons burthen. Don't recollect what the lighter was loaded with; recollect no cotton; she was fifty or sixty feet long.

There were two other flat-boats a little outside, behind, and when the collision took place they pulled out farther; they were loaded about as deep as his flat-boat. There was three feet water on the bar.

The diagram was shown to witness.

The steamer was just below the shoulder of the Towhead; the snag was abreast the stern of the flat. The other flat-boats passed after the boat sunk. The flat-boats dropped probably over the reef, about the shoulder of the Towhead—about one hundred and fifty yards behind when the collision occurred; they were lashed together; they were eighteen feet wide each; they did not cut loose; they anchored about the foot of the island.

There were five full hands on the flat-boat; there was a bow and stern oar and side oars; they worked the bow and stern oars, two men at each, and tried to throw the flat out to raft out; then they were floating straight up and down; they did not move her out; she drew twenty-three or twenty-four inches; thinks the others

were drawing about the same. The two other flat-boats covered thirty-six feet, ninety feet long; these two boats, when the steamer struck the flat-boat, were one hundred and fifty yards behind, and passed outside forty or fifty feet. Thinks the steamer could have passed if all the flat-boats had kept their places; the shoalest bar was twenty-three inches.

Testimony of Frank Stein.

Testimony of Frank Stein:

He is a steamboat clerk. He assisted in raising the machinery. He found the stern of the flat-boat in sixteen feet water, and bow twenty feet water, lying bow out. The stern there is bluff, and the water outside of a sixteen-foot boat was twelve or fifteen feet deep.

The deep water extended out to the Illinois shore, fifty yards out; from there down to the foot of the Towhead the water was from sixteen to twenty-five feet deep. It was two hundred yards to the foot of the Towhead.

They were twenty-three days engaged from the time they left Cincinnati. G. W. Ford was there; resides now in St. Louis.

Whilst there a good many boats passed; some crossed in very low down; some ran past, and then crossed over; others crossed between these points; don't know how deep the channel was on the reef. Below the reef the water gradually deepened. Boats, in passing, stood out a breadth or two breadths; had to row out in a skiff to get papers; this was outside of the barges, anchored alongside the wreck.

They found the machinery in the boat; placed chains under and attempted to wind the boat up; found both gunwales broken; gunwales two feet deep and eight inches wide.

Cross-examined.

Barges to raise the boat were lying in different positions; cannot recollect how placed when boats passed. Inside boats were twenty feet from shore, and bow of wreck forty feet. Steamboats passed the bow of the wreck at different distances, from twenty to forty feet, which would be from sixty to eighty feet from shore; one hundred feet from shore, water was five feet deep; one hundred and fifty feet, water was five feet; ninety feet from the barge, water was five feet deep.

Below the wreck a bar came in from the Illinois shore to the Kentucky shore; this made the channel at this point two or three hundred yards; below the wreck he don't know how wide it was. The channel was next the Kentucky shore. Boats coming up alongside the Towhead stood out sometimes two lengths. These boats were light draught, drawing from twenty to twenty-four inches.

While there, the river was about stationary. The snag was

about twenty feet above the stern of the wreck, and stood out about same distance; it was a not large sapling—a boat would avoid it; some boats crossed about the snag.

Re-examined.

Alexander Ford is down on the Mississippi, looking at the river; he is a pilot; lives thirteen miles back of Cincinnati.

George W. Ford resides in St. Louis, and runs from New Orleans to St Louis. Joseph Ford is now on his way to New Orleans on a flat-boat. E. Dougherty is in some place in the western country; he is a young man; has left Cincinnati. Sam. Brichel is on the steamboat A. O. Tyler—runs from New Orleans to St. Louis.

This was all the testimony heard on the part of the libellants.

The following is the testimony heard on the part of the defendants.

Depo. of Tho. D. Mitchell.

Deposition of Thomas D. Mitchell:

Was first engineer on the Robertson; she was going up near shore, so close that when the collision took place he thought the jar was occasioned by striking the bushes. The steamer was about twenty feet from shore. He could not see the bow of the steamboat to tell how near it was to the shore. The men who got off the flat-boat stepped off the steamboat to the shore. He did not see the flat-boat, as the lighter was loaded with cotton piled so high he could not see over it. At the moment he felt the jar the engines were backing; recollects seeing one flat floating outside the steamboat in a moment after the collision; cannot state about the depth of water outside of the floating flat-boat.

James Fife was standing near to witness when the collision took place. He could not see the flat-boat that was sunk, for the cotton on the lighter. Fife said he was glad witness was so close to the engine, that no blame could attach to him.

Mr. Page was not in the engine-room; cannot say whether it was just after breakfast or dinner; knows nothing of any obstructions in the way of the flat-boat pursuing the same channel the other flats.

The steamer was going very slow, and the engines had made several revolutions back before the jar; if the steamer was going ahead at all it must have been very slow.

Fife had good character as pilot some years ago, but had lost it. He steered the boat down to Cairo and left. He would not run a boat as engineer if Fife was steersman or pilot. Steamboat about forty feet wide, lighter about twenty feet; steamboat drawing about twenty-three or twenty-four inches; lighter had a deck, and cotton was on deck; did not see the flat-boat at all. The engine-room

was in the stern of the boat. A stern-wheel boat is not like a side-wheel. It is back and go ahead; they cannot turn about or be handled like a side-wheel boat. He does not know whether the steamboat could have run on the outside or not; had run close along the Kentucky shore for some distance. There was plenty of space between the steamer and the floating flat-boat for the other flat to have passed; thinks the current runs over the bar pretty straight down; cannot state how or how near the crossing was to the place of collision.

Questions by Proctors for Libellants.

1. What connection had you at the time with the Dr. Robertson?

Answer. I was first engineer.

2 by same. Where were you standing, and what were you doing?

Answer. I was standing in the engine-room between the "doctor" and larboard engine, looking at the working of the doctor.

3 by same. How near the side door leading to the guards?

Answer. Some ten or twelve feet.

4 by same. Who were you talking with?

Answer. I had been talking with Captain Leake, who had started forward just before the collision, and I saw him after the jar going forward rapidly.

5 by same. Who was at the engine?

Answer. I was.

6 by same. How long had you been standing there?

Answer. At least half an hour, for I had been at work fixing the doctor, and was looking at it to see how it worked.

7 by same. How long before the collision had you finished working at the doctor?

Answer. I can't now state. I had finished the work; the pump was going and I was looking at it.

7 by same. Who owned the boat?

Answer. I understood Captain Leake owned her.

8 by same. Where do Leake and Jesse W. Page reside?

Answer. They live in Nashville, Tennessee.

9 by same. What connection have you with the boat or owners now?

Answer. None whatever.

10 by same. How long have you been on the river?

Answer. Some twelve or thirteen years, off and on.

11 by same. What is your business?

Answer. An engineer, though I am now engaged working in a machine shop.

12 by same. How much does the boat owe you, and where do you reside?

Answer. The boat owes me $297 20; I reside in New Albany, Indiana.

13 by same. Where is the throttle valve?

Answer. The throttle valve is in the middle of the engine-room in the after part of the boat, close to the doctor; you could almost reach the throttle valve of the doctor when at the throttle valve of the engine.

14 by same. Do you not know the channel sets in towards the Towhead, and width of channel?

Answer. He does not know anything about the river there, and width of channel.

15 by same. Was not the Robertson flanking in towards the Towhead? Do you know how the bow pointed at the time?

Answer. He does not recollect anything about the Towhead. The boat was in close to the shore.

15 by same. Did you not just now say that her bow was pointed towards the shore, and must have been near it, as her stern was out, and that she flanked in immediately to the shore?

Answer. I supposed her bow was closer to the shore from the way the boat lay; I could not see her bow. They then let the boat drop in to the shore, and the men got off to the shore.

16 by same. How long after Leake run forward before the men got ashore?

Answer. I can't say. I did not see them get off.

17 by same. How soon after the collision before she flanked ashore?

Answer. I don't recollect; did not note time; there was excitement at the moment, and in my position I had no chance to look at what was going on; I had to stand at the engine and answer the bells.

18 by same. was not the bell rung to stop her?

Answer. It was rung to stop her, and immediately to back her.

19 by same. Were not the bells rung quickly, one after the other, as though in a hurry?

Answer. They ring up a bell to stop her, and then to ship up—that is, to prepare for backing. They ring the bells as quick, one after the other, as possible, so as to let me know it was to be done quick.

20 by same. What have you to do after the backing bell is rung before you can back?

Answer. Have to go frome one engine to the other and ship up full stroke, then go to the throttle valve to give her steam.

21 by same. Where were those engines, and how far from the throttle valve?

Answer. The engines were about 27 or 28 feet apart, somewhere in that neighborhood, on the edge of the boat, on each side; the throttle valve was in the middle between them.

22 by same. Who was clerk of the boat?

Answer. Jesse W. Page.

23 by same. Was there any other man on board the boat of that name?

Answer. No one.

24 by same. What direction did Leake run?

Answer. Through the engine-room to after end of boilers, and then out on the guard, on the larboard guard, I think it was.

25 by same. What connection has the clerk with a Mr. Page who has a store in Nashville?

Answer. I do not know. Mr. Jesse W. Page has just said he was a twin brother of his.

26 by same. Where was the cotton you have spoken of?

Answer. It was on the lighter.

To questions he says: It was 18 to 20 feet wide, and 70 to 75 feet long; it was a coal barge.

By Page. How soon after the bell rung did you have hold of the engine?

Answer. It was so short a time I could not tell; it was done in a run.

By the same. What effect did the backing have in giving position to the stern of the boat; was it to throw the stern to shore, or out towards the middle of the river?

Answer. I don't think it would have either until several revolutions of the engine, until they could give her the wheel.

By same. Could you in your position have seen how near the bow of the boat was to shore; whether it was below a point on the shore, or whether it lay on a straight shore?

Answer. I could not have seen.

By libellants. Where was Leake when the jar occurred?

Answer. I can't state how far; he was going forward pretty quickly when I saw him; he was forward of the engine-room when the jar occurred, and was going forward rapidly, pretty close to the boilers, when the jar occurred; the after end of the boilers was sixty or seventy feet forward of the doctor.

By same. What caused the captain to start forward rapidly?

Answer. He had started forward before the alarm; immediately after the alarm I looked forward and saw him going rapidly.

By same. How long before the bell rung had he started forward?

Answer. But a few moments; he had only walked forty or fifty feet.

THOMAS D. MITCHELL.

Depo. of E. R. Marling.

Deposition of Edward R. Marling, read in the district court, and also in the circuit court:

Question 1 by deft. Were you on board the steamer Dr. Robertson when the collision *when the collision* on which this suit was founded; if so, in what capacity?

Answer. I was on board of the steamboat Dr. Robertson at the time of said collision in the capacity of carpenter in said boat.

Ques. 2 by same. Where were you at the time of the collision? state all you know about it.

Answer. I was on the hurricane deck of the boat, and had started down, and by the time I had got half way down the steps the collision took place; I proceeded down to the lower deck; the steamboat Dr. Robertson was ascending the Ohio river; she had a flat-boat, decked over, in tow, attached to her larboard side; she had reached Cincinnati Towhead, and was closely hugging the Kentucky shore; at this time I saw three flat-boats descending the river, two of which bore off from the Kentucky shore, after dropping over the reef; by using their sweeps moderately they passed to our larboard full thirty yards; the other boat, which had crossed the reef first, and with which the collision occurred, came with the current directly towards the steamboat Dr. Robertson, the men on board of said flat-boat making no exertion, either by using their sweeps or otherwise, to avoid a collision; at less than fifty yards from the steamboat I noticed the men on the flat sitting down, and their sweeps laid up alongside the deck of the boat, and in consequence of their inactivity the collision occurred; the flat came directly against the one in tow by the steamboat Doctor Robertson, striking on her larboard gunwale against the larboard gunwale of the flat in tow, sinking the descending flat-boat, and knocking a hole in the flat in tow; previous to the collision the pilot had rung the bell for the engine of the steamboat to be stopped, and it had been done.

At the time of the collision, the steamboat Doctor Robertson was near enough to the shore for a man to leap to it, and in a few minutes after the collision I saw the men that were on the sunken flat on the shore; as soon as the collision occurred, Captain Leake, who was in command of the Doctor Robertson, ordered a man to jump ashore with a line, which was done immediately.

Ques. 3 by same. Could the Doctor Robertson have gone nearer the Kentucky shore than she was at the time of the collision?

Answer. With safety to herself she could not.

E. R. MARLING.

Depo. of B. A. Joyce.

Deposition of B. A. Joyce, read in district court, and also in the circuit court:

Question 1 by defendant. Were you on board the steamboat Doctor Robertson when the accident happened, upon which this suit is founded?

Answer. I was, and clerk at the time.

Question 2 by same. Where were you at the time of the collision? state all you know about it.

Answer. I was sitting forward on the boiler-deck of the steamboat, and had been there about an hour previous; the Doctor Robertson was ascending the Ohio river; she had reached the foot of the Cincinnati Towhead about nine o'clock in the forenoon of the 8th day of August, 1856; I saw three flat-boats descending the river; at this point there was a reef a short distance above the steamboat; two of the flats above mentioned, after crossing the reef, pulled out from the Doctor Robertson, and passed her larboard side at least fifty yards off.

The other flat, after passing over the reef, drifted directly towards the Doctor Robertson, her men sitting down and making no exertion to avoid a collision, and her oars or sweeps lying fore and aft on the sides of the boat; the Doctor Robertson, at this time, was closely hugging the Kentucky shore, or Cincinnati Towhead, as near as a boat could get; before the collision I heard the pilot of the Doctor Robertson ring the bell to stop the engine, and then the backing bell immediately.

The engine was stopped instantly.

The descending flat-boat continued to drift towards the steamboat Doctor Robertson until the collision occurred, the larboard gunwale of the descending flat striking the larboard gunwale of the flat-boat in tow of the Doctor Robertson, sinking the former in a few minutes, and breaking a hole in the flat in tow.

Before the collision the steamboat had been running very slow; after the sinking of the flat, or whilst she was sinking, I saw some of the men belonging to the sunken flat bring their bedding across the bow of the steamboat and throw it ashore, and also saw one of the men jump ashore from the steamboat.

The flat-boat that was sunk by the collision was laden with machinery and boilers; two or three boilers I saw drift ashore, and the men belonging to the flat-boat took charge of them and fastened them to the shore.

Question 3d by same. Did the men upon the flat which was sunk use any exertion to prevent the collision, and had they used their oars up to the time of the collision?

Answer. They used no exertion up to the time of the collision, nor did I hear any order from their commander to use their oars; and if he had ordered it, it was close enough to have heard it, provided the order had been given in an ordinary tone of voice.

Question 4th by same. Did Captain Leake order a line ashore; if so, how was it carried ashore?

Answer. He did order a line to be taken ashore, and his command was obeyed immediately, a man jumping ashore with it.

Question 5th by same. How many men had the descending flat on board; do you think the crew aboard sufficient to manage it?

Answer. I do not think there were more than four, and I am satisfied they were not competent to manage a boat of such weight and build.

Question 6 by same. Could the steamer Doctor Robertson, from her position, have avoided a collision with the flat that was sunk without coming in contact with the other two flats? Could the crew of the flat-boat which was sunk have avoided the collision by pulling out into the river?

Answer. I do not think the Doctor Robertson could have avoided a collision without endangering the other boats, and I am certain that the boat that was sunk might have been saved by a stroke of her oars.

B. A. JOYCE.

Depo. of L. C. Merritt.

Deposition of L. C. Merritt, also read in district court:

Question 1 by defendant. Were you on board the steamboat Doctor Robertson when the accident upon which this suit is founded occurred; if so, in what capacity, and where were you at the time?

Answer. I was on board the steamer Doctor Robertson at the time, and was barkeeper on the boat. I was in the bar reading previous to the collision, and hearing a noise went out to the forward part of the boat.

Question 2d by same. Did you witness the collision? If so, state all you know about the matter.

Answer. I saw the collision just as I reached the forward part of the steamboat. I saw a flat-boat descending the river, and coming directly towards the Doctor Robertson, and not more than a foot or two from a flat-boat in tow of the Doctor Robertson and attached to her larboard side, and immediately the collision took place; the gunwale of the descending flat striking the gunwale of the flat in tow, the former sinking in a few minutes. The men on the sinking boat immediately jumped aboard the flat in tow, and from there to the deck of the Doctor Robertson, when the captain of the sunken flat immediately exclaimed, "that there was thirty thousand dollars gone to hell," which the steamboat would have to pay for; and one of the men said to him, "By God, I told you we ought to have pulled out." From that they got up their bedding and stepped ashore from the Doctor Robertson.

Question 3d by same. What was the position of the steamboat Doctor Robertson at the time of the collision? How near was she to the shore?

Answer. The Doctor Robertson was ascending the Ohio river and was closely hugging the Kentucky shore or Cincinnati Tow-

head; so near, as I said before, that the men stepped ashore without the assistance of a stage plank.

Question 4th by same. What was the sunken flat laden with?

Answer. She was laden with machinery and boilers.

L. C. MERRITT.

Depo. of B. J. Caffrey.

Deposition of B. J. Caffrey, also read in the district court:

Question 1 by defendant. Are you acquainted with the character of John Cotter as a steamboat pilot? If so, what is his character in that capacity?

Answer. I have known Mr. John Cotter by character for many years, and have always understood him to be a man of good standing as a pilot, and have always inferred, from the many boats I have known him to be on, that he was a man of good moral character and could be relied on as a careful, trustworthy man.

Question 2 by same. Have you ever been engaged in steamboating; if so, how long, and in what capacity?

Answer. I have been engaged on the river about twenty-one years as mate, master, clerk, and pilot.

Question 3 by same. Are you acquainted with the general character of James Fife for truth among those who know him; if so, what is that character?

Answer. I have no business with this man, as he is not considered an equal with gentlemen, and with river men is looked on as a man of no character whatever.

B. J. CAFFREY.

Depo. of W. T. Yeatman.

Deposition of William T. Yeatman, also read in the district court:

Question 1 by defendant. Have you ever been engaged in steamboating; if so, how long, and in what capacity?

Answer. At one time as clerk, since as captain; in the year 1833 as clerk, and at different times since as captain.

Question 2 by same. Are you acquainted with the general character of John Cotter as a steamboat pilot; if so, what is his character in that capacity?

Answer. I have been acquainted with Mr. Cotter since 1846 as a pilot of steamboats; his character in that capacity is good as a good and safe pilot.

Question 3 by same. Was Mr. Cotter ever engaged on your boat as pilot; if so, how long, and did you find him careful and prudent?

Answer. Mr. Cotter was with me as pilot of the steamer Tennessee during part of the years 1846 and 1847, and the season of 1848 and 1849. I look upon him as a prudent and careful man.

WM. T. YEATMAN.

Depo. of H. Winter.

Deposition of Henry Winter, read in the circuit court:

Interrogatory 1st. State whether you know anything in relation to the sinking of a certain flat-boat on the Ohio river, at a place known as the Cincinnati Towhead, at any time during the year 1856, by coming in contact with the steamboat Doctor Robertson? if so, state fully the circumstances, describing the position and management of said steamboat Doctor Robertson by her captain, pilot, and other officers, and the position also of the flat-boat sunk at the time and place aforesaid; and also the position of other flat-boats, if there were any floating near by, at the time aforesaid.

Answer to interrogatory 1st. I was a passenger on the steamboat Doctor Robertson from Cairo, Illinois, to Cannelton, Indiana, when, early in the morning, say about eight o'clock, on or about the 8th day of August, A. D. 1856, near the foot or lower end of what is called the Cincinnati Towhead, a few miles above Caseyville, in the State of Kentucky, my attention was directed to several flat-boats descending the river above us. The steamboat Doctor Robertson was ascending, hugging the Kentucky shore, having a coal-barge loaded with cotton on the outside in tow. There were three flat-boats descending, at a distance of fully one-fourth of a mile above said steamboat Doctor Robertson, the foremost one of which was drifting with the current towards the Kentucky shore, in the direction of said steamboat. The other two flat-boats were immediately behind the flat-boat above named. After dropping over the reef, the two hindmost flat-boats above described immediately pulled out from the Kentucky shore and from the steamboat Doctor Robertson towards the opposite or Illinois shore. When within hailing distance of the foremost flat-boat above described, signs were made by the officers and passengers of said steamboat to the persons on said flat-boat to pull out from the Kentucky shore so as to avoid a collision with said steamboat. No attention to said signs was paid by the persons on said flat-boat, and no efforts were made by the persons on said flat-boat to avoid a collision with said steamboat Doctor Robertson, or with the barge in tow of said steamboat, said steamboat running slow at the time.

Interrogatory 2d. If you know, state the position of the sand-bar, the direction of the channel of the river, and the necessity, if any, of said steamboat Doctor Robertson being in the position she occupied at the time aforesaid, and what the effect might have been had said steamboat changed her position at the time aforesaid.

Answer 2d. I cannot state the relative positions of the sand-bar and the channel of the river; I do not know whether the steamboat Doctor Robertson was in her proper position or not at the time and place aforesaid. In my opinion, had the steamboat turned out into the river, she would have sunk both the other flat-boats.

Interrogatory 3d. If you know, describe the character of the steamboat Doctor Robertson—whether side-wheel or stern-wheel.

Answer 3d. The Doctor Robertson was a stern-wheel boat.

Interrogatory 4th. State whether there is any difference in the management of a stern-wheel boat from a side-wheel boat; whether one is more easily managed, handled or controlled than the other.

Answer 4th. A side-wheel boat is more easily managed than a stern-wheel boat.

Interrogatory 5th. State whether anything was done, and if so, what, by the persons on the flat-boat aforesaid, to prevent her from striking against or coming into collision with the said steamboat Doctor Robertson, or with the barge in tow.

Answer 5th. Nothing was done to prevent said collision by the persons on said flat-boat. Five or six strokes with the oars of said flat-boat in the proper direction would have prevented said collision.

Interrogatory 6th. How far could the steamboat Doctor Robertson be seen by the persons on said flat-boat at the time and place aforesaid?

Answer 6th. A half a mile or more.

Interrogatory 7th. Do you know the general character of a certain man by the name of James Fife? and if so, state what his character is for truth and veracity.

Answer 7th. I do; his character is bad.

Interrogatory 8th. Do you know where said Fife was at the time of, and shortly previous to the collision; and if so, was he in such a position or location on said steamboat as to see the collision aforesaid?

Answer 8th. I cannot answer said interrogatory.

Interrogatory 9th. Did you hear the said James Fife say anything in relation to the collision aforesaid; and if so, what, and to whom?

Answer 9th. Immediately after the collision took place I went down to the main deck of the steamboat Doctor Robertson, where I saw the said James Fife engaged in catching at portions of the wreck of said flat-boat while she was sinking. After the flat-boat aforesaid had sunk, and the said steamboat had got under way, again I heard said James Fife say that "the damned fools on said flat-boat ought to have pulled out," and there would have been no accident.

Interrogatory 10th. Do you know, and if so, state the conduct of the officers of said steamboat Doctor Robertson at the time of, and immediately previous to the collision aforesaid?

Answer 10th. The said steamboat was running slow previous to said collision, and at the time of the collision her wheel was backing. The officers of said steamboat Doctor Robertson were careful, prudent and skilful men, and on this occasion their conduct was cautious and skilful.

HENRY WINTER.

The following is the testimony of the witnesses examined on the hearing on the part of the defendants, taken down, settled, and made a part of the record.

Testimony of John Cotter.

Testimony of John Cotter:

Was pilot on steamer Robertson at the time of the collision, and was on watch. As he passed up he saw the flat-boats had made their crossing to the Kentucky shore; the flats were then a mile off. When he got half way up the Towhead, the flat-boat seemed to stand out; he thought she would pass out, but she quartered in, and came floating down. He then run slowly, and finally he run his bow in to the shore under the snag. He called out to those on the flat to stand out, but they did nothing. The flat then struck the lighter and sunk.

When the collision took place his boat was backed up and stopped, and was tied to a willow sapling at this time.

If he had attempted to back out, she would have struck both the other flats.

The steamer was five hundred tons, thirty-six feet beam; the barge was eighteen feet over—had three hundred bales of cotton on board; no deck.

The bow of the steamer was about six feet from the snag; the boat was against shore; had been running slow; was drawing twenty-eight or twenty-nine inches.

He has been a pilot since 1824.

At the upper point of the Towhead there would hardly have been room for a flat to pass outside; there would have been no difficulty in the flat pulling out where she was at the time. He had not seen the men pulling out—their oars were laid up; he saw no bow oar; when they got very close they made two short licks.

Cross-examined.

He quit this boat at Evansville, seventy or eighty miles below Louisville.

Leake told him that he was owner of the boat; Leake was the captain; don't know where the captain was at the time.

Page was clerk, and at the time on the hurricane deck, about the chimneys.

Could see the boats well from where he was; he first saw the flats when he was a mile below the Towhead; about 8 o'clock a. m. the collision took place.

When he first saw the flats they were in Shawneetown bend; when he first saw the flat which was sunk, the other two were behind fifty yards or so.

From the Curlew mines up to the Towhead the channel varied;

on the Towhead there was room for two steamers to pass. He thought the flats were standing out; the current runs down the river, don't set in to shore.

Flat-boats have no usual place; the current would not take the flat in to the Towhead; there is no regular bend there.

In coming up, until the collision they run very slow, being in shoal water; in coming up, in meeting a boat, the boat coming up should be on the Kentucky side.

The boat had been stopped; had made three revolutions back before the collision took place; at the time of the collision the other two flats were about fifty yards above.

There is no established rule between steamboats and flat-boats.

At the foot of the reef the current sets in, and then out towards the bar.

The men on the flat quartered towards the island; she was quartering across a little, bow out to Illinois; when within a short distance tried to turn out, when they stopped; if he had tried to run out he would have run into the other flats; he was at the wheel.

He does not think, is confident and certain, the other two flats were not one hundred and fifty yards behind. They passed down fifty or sixty feet out; on the biggest boat they had bow and stern oars; if they on the flat had commenced fifty or sixty yards above, or if they had used their oars twenty yards above, they could have passed the boat.

The steamboat was fully manned.

On second examination: When he first saw the boats, it was when he passed Curlew mines, three or four miles below; he had then to cross the river twice; he had to run the Illinois shore to Saline Towhead, and then cross over, and then run again and cross again to the Kentucky shore.

He run across to the Kentucky shore, and then right up the Towhead; he saw the flat coming over the reef; his position and duty then was to keep the shore; the flat was running down the shore, and when he saw the flat had not changed her position he rung his bell to stop the steamer; they made two or three revolutions back and stopped; they put out a line and were stopped, when the collision took place. He called out to those on the flat to pull out, but they made no exertion to get out of the way; they laid up their sweeps; the boat struck about the corner of the flat.

If the steamer had backed she would have followed the lighter, and been thrown stern out into the channel; stern-wheel boats cannot be managed and turned about quickly by rudders.

If the steamer had attempted to turn out on the larboard to avoid the flat, and had straightened, she would then have come into collision with the other two flats; he does not think they were one hundred and fifty yards behind; when they passed they were thirty

yards out from him; one of the men on the other flat called out to Douglass, and said in passing, "Why did you not bear out; didn't you see the steamboat?" He has been a flat-boatman; he thinks there would have been no difficulty to throw out the flat in thirty or forty yards; the current was about two and a half miles an hour.

The bar where the flats sttopped over was one hundred or one hundred and fifty yards.

Cross-examined.

The lighter was lashed about even with the bow, and was loaded with three tiers of cotton in some parts; the lighter was floored over above the gunwales.

The bank was eighteen or twenty feet above; the sapling was on the bank.

The captain was about decks; he did not see him or the mate just at this time; Page was on the hurricane-deck.

Four or five men went out with the line, and the line was fast before the collision took place, two or three minutes.

Testimony of John Armstrong.

Testimony of John Armstrong:

Has been on the river thirty-five years, a pilot; the channel is as described by the other witnesses; a steamer in coming up should be kept near the Towhead, that she may make her turn.

A stern-wheel boat is not so easily managed as a side-wheel boat.

Where they have to make the turn, there is, it may be, two hundred feet—it may be not so much; the water widens below the reef; when half up the Towhead, it would be very short to turn out to the bar and then back to the Towhead to make the next turn.

Cross-examined.

He knows nothing of the facts of the collision.

Testimony of M. Seaberry.

Testimony of M. Seaberry:

Was running the river about a trip a week at that time; saw where the wreck was; passed once when the boats were wrecking.

The wreck laid, he supposes, thirty feet, her stern from shore.

The practice is that boats coming up hugged the Towhead; flats *general* hauled out a little in order to have room to cross over to Saline Towhead. The snag was fifteen or twenty feet from shore. A flat could have stood out very well, and could with sweeps have had no difficulty in standing out.

Cross-examined.

Has flat-boated seventeen years; flats are not considered as manageable as steamers; steamers do the most of the dodging.

Deep water extends out fifty yards; it is a pocket, and a steamer would not have room to go out and turn at the foot of the Towhead; the channel is narrow. The Doctor Robertson is one hundred and ninety feet long, five hundred tons; coal barge seventy feet long and eighteen feet wide.

A stern-wheel boat is very hard to manage, especially in approaching a bar. She will smell the bar and run off. When she takes a sheer on the pilot he cannot manage her. She has to make the turns by the rudder; her wheel does not assist her like a side-wheel boat. She is hard to manage and very uncertain, and in this case the lighter would have made it more difficult to manage the steamer; and the steamer in this case, encumbered with the lighter, would have been forced out quartering if they had attempted then to turn out.

Testimony of John Kirkpatrick.

Testimony of John Kirkpatrick:

Is a pilot; was running the river that season; saw the wreck twenty or twenty-five from shore; passed when they were wrecking.

It was seventy-five yards from the reef to the shore. He always run up the Towhead. A steamboat cannot be backed with a barge; in this case, if they had backed it would have thrown the stern out. In this case he would not have attempted to have backed out; at this place he would have laid next the shore.

The defendants also read these depositions taken on the part of the libellants:

Depo. of R. N. Douglass.

Deposition of R. N. Douglass:

1st question by counsel for the libellants. Please state your occupation and residence, and when you expect to leave your home, for what purpose, and where you intend to go.

Answer. I am a pilot on the river, a flat-boat pilot from Cincinnati to New Orleans. I have been a pilot I suppose eighteen or twenty years. I live in Cincinnati, Ohio. I expect to leave my home as soon as the ice breaks up, and I intend to go to Baton Rouge, in Louisiana. I am going to take some locomotives down on a flat-boat.

2. State what you know about a flat-boat loaded with machinery bound down the river which was sunk some time in August last, near Cincinnati Towhead, about six miles below Shawneetown, in the Ohio river. State the name of the flat-boat; who had charge of her; describe her cargo, and when it was to be delivered; to whom did it belong.

Answer. The flat-boat was called the "Fillmore;" I was master of her, and had charge of her and her cargo. She was loaded with machinery for making sugar, which was shipped by the "Niles Works." It belonged, I believe, to the Niles Works; they hired me to take it down the river. I was to take it to Cairo and reship it there. It was machinery on a new plan for making sugar by steam. There was a great deal of copper piping, and other copper work, a good deal of sheet-iron work, tanks, &c. It was very valuable machinery. There were three boilers; a part of it was in boxes; I think there were fifteen boxes of the machinery altogether. The machinery was very fine; it was a splendid lot of machinery, the most valuable lot I ever took down the river, I think. It was to be delivered to different planters on the Mississippi coast. I have been in the habit of taking machinery down the river; I have taken a good many loads down for the Niles Works.

3. What was the value of this machinery?

Answer. I think it was worth twenty thousand dollars, perhaps over that amount.

4. Give a particular description of this machinery. If you have the bill of lading of it produce it, and attach it to your deposition.

Answer. Here is the original bill of lading, a copy of which I will attach to my deposition; I desire to keep the original. In this bill of lading every piece of machinery is marked and numbered, and described more accurately than I can describe it.

5. What portion of this machinery was recovered and saved by you, and by you and Mr. Ford, with the aid of his boats and rigging, and what portion was there which you could not recover? Describe those portions of it which you were not able to recover.

Answer. I and my crew got out three boilers, one batch of copper pans, one box of copper piping. That is all we got out before Mr. Ford came down. I and my crew staid there to watch the property; I staid with the wreck from the 8th of August till the 7th of September. I likewise worked there to help get out the machinery, as long as I staid. I refer to the bill of lading, as signed by the steamer "T. C. Twichell" for the portions which Ford got out, together with what I got out, as stated above.

The portion which was not recovered by either myself or Ford, is the following:

H. 4 filters.
1 bottom, for filters.
1 pipe, for bone-burner.
1 drying plate.
24 boneblack buckets.
7 clarifiers.

2 sheet-iron troughs.
5 copper worms.
2 boxes of machinery.
N. 1 piece moulding brake.
3 grate bars.
1 stand pipe.
1 safety-valve weight.
1 piece 2½-inch gas pipe.
3 boxes of machinery.

These are what we did not save. The boxes contained fine machinery, polished work, bright work, and copper work.

The following is the bill of lading referred to:

Bill of Lading.

Shipped in good order and well conditioned, by Niles Works, on board the good flat-boat Douglass, R. N. Douglass, master, and bound for New Orleans, the following articles, marked or numbered as below, which are to be delivered without delay in like good order, at the places below named, (the dangers of navigation, fire, and unavoidable accidents excepted,) unto persons below named, or assigns, Stephen Allen to pay freight for the said goods at the rate of 30 c. per 100 lbs., on presentation of B. of L., receipted, at 36 Natchez street, New Orleans. In witness whereof the owner, master, or clerk of said boat has affirmed to 3 bills of lading of this tenor and date, one of which being accomplished, the others to stand void.

Dated at Cairo, this day of 185 .

(C. E. Chevill.)

N. No. 1. 1 bed plate.
2, 3. 2 main stands.
4. 1 cylinder, &c.
5, 6. 2 air-pumps.
7. 1 pump connecting pipe.
8. 1 beam.
9. 1 stop stand.
10, 11. 2 engine slides.
12 to 15. 4 pump do.
16. 1 crank.
17, 18. 2 main shaft P. blocks.
19. 1 large cross pipe.
20. 1 main shaft.
21. 1 fly-wheel.
22. 1 force pump.
23. 1 cold-water pump.
24 to 26. 3 p'ces moulding.
27. 1 pillow block plate.
28, 29. 2 pump arms.

30. 1 condenser.
31. 1 stop-valve.
33. 1 weighted valve pipe.
34. 1 large do. do.
35. 1 p'ce 8-in. pipe, 4 square flanges. 53,710 lbs. J. H.
36, 37. 2 8-in. do. straight. W. Nolan, 139 miles
38 to 40. 3 8-in. elbow pipe. above New Orleans,
41. 1 brass pump. opposite.
1 42-in. boiler, 36 ft.
42. 1 fire-front and doors.
43, 44. 2 p'ces boiler front.
45, 46. 2 side plates.
47. 1 bottom plate.
48. 1 column.
13 grate bars.
49. 1 bearing bar.
50. 1 flue plate.
51. 1 britching.
52. 1 stand pipe.
53. 1 blow-off pipe.
54. 1 check-valve pipe.
55. 1 water receiver.
56, 57. 2 housing side-boxes.
17 p'ces 4-in. socket pipe.
58 to 60. 3 brackets.
61 to 62. 2 rock-shaft stands.
63. 1 safety-valve weight.
64. 1 do. pipe.
65. 1 4-in. valve cock.
66. 1 4-in. S. escape pipe.
67. 1 4-in. elbow do.
68. 1 4-in. straight do.
69. 1 4-in. straight injection pipe.
70. 1 elbow 4-in. steam-pipe.
71. 1 elbow 4-in. do. with two branches.
72. 1 straight do. do. with one branch.
73, 74. 2 float boxes.
75. 1 T. pipe.
76. 1 elbow 4-in. injection pipe.
77, 78. 2 cast pans, for float boxes.
11 p'ces 2-in. gas-pipe.
6 boxes machinery.

V. B. M. 3 roller wheels.
1 housing cap.
2,733 lbs. V. B. Marmellion, 44½ miles above New Orleans, opposite side.

P. B. M.	1 housing bed plate.		
	1 juice pan.	7,852 lbs.	P. B. Marmellion,
	1 spur stand bed plate.		45 miles above New Orleans,
	1 hanger and cap.		opposite side.
	1 box machinery.		
1.	1 mud britching.		
2.	1 mud receiver.		
3 to 6.	4 stands for mud receiver.		
7, 8.	2 check-valve pipes.		
9, 10.	2 blow-off valve pipes.		
11.	1 flue plate.		
12.	1 p'ce cross steam-pipe.		
13 to 16.	4 filters.		
17 to 20.	4 man. plates, for filters.		
21 to 28.	8 filter pipes.		
29 to 52.	24 p'ces bottoms, for filters.		
53.	1 top plate, for bone-burner.		
	40 pipes, for bone-burner.		
54 to 55.	2 nozzle plates, for do.		
56 to 59.	4 binders, for do.		
60 to 69.	10 drying plates.		
70 to 93.	24 buckets.		
94.	1 p'ce 5-in. pipe, 2 branches.		
95 to 96.	2 small cross steam-pipes.		
97.	1 small shaft crank and wheel.		
99.	1 pinion.		
100.	1 small fly-wheel.		
101, 102.	2 brass juice pumps.		
103, 104.	2 drum-heads.		
105 to 112.	8 clarifiers.		
113 to 119.	7 sheet-iron troughs.		James Hewitt or H. W.
128 to 131.	4 float boxes.		Miller, Donaldsonville,
	4 copper pans.		below the bayou.
	4 copper worms.		
	1 box of copper troughs.		
	8 copper worms, for clarifiers.		
132 to 135.	4 cast pans, for float boxes.		
143 to 147.	4 mud-receiver connecting pipes.		
148 to 153.	6 p'ces 4-in. steam-pipe..		
154.	1 4-in. valve cock.		
155.	1 bundle $1\frac{1}{4}$ gas-pipe.		
156.	1 " 1-in. do.		
157 to 165.	8 small float boxes.		
166 to 173.	8 cast pans, for float boxes.		
175.	1 cylinder, for doctor.		
176.	1 bed plate.		
177, 178.	2 columns.		

179, 180. 2 stands, for fly-wheel.
181, 182. 2 force pumps.
183, 184. 2 cold-water do.
185. 1 beam.
186. 1 fly wheel.
187, 188. 2 p'ces moulding.
7 boxes machinery.

57,128 lbs. 4. 67.

Copy of the bill of lading, the original of which was signed by R. N. Douglass. This is the paper sworn to by said Douglass as a copy of the original, and attached by him as a part of his deposition, taken by me on Friday, the 30th of January, 1857.

A. R. DUTTON,
U. S. Comm'r.

Bill of Lading.

Shipped in good order and well conditioned, by Niles Works, on board the steamer T. C. Twitchell, master, and bound for New Orleans, the following articles, marked or numbered as below, which are to be delivered without delay, in like good order, at places below named, or assigns; Stephen Allen, 36 Natchez st., New Orleans, to pay freight for the said goods, at the rate of 50 c. per 100 lbs., on presentation of B. of L. receipts. In witness whereof the owner, master, or clerk of said boat has affirmed to 3 bills of lading of this tenor and date; one of which being accomplished, the other to stand void.

Dated at Cairo, this 21st day of Sept., 1856.

N. 1. 1 bed-plate.
2, 3. 2 main stands.
4. 1 cylinder, &c.
5, 6. 2 air pumps.
7. 1 pump connecting-pipe.
8. 1 beam.
9. 1 top stand.
10, 11. 2 engine slides.
12 to 15. 4 pump do.
16. 1 crank.
17, 18. 2 main shaft pillow-blocks.
19. 1 large cross-pipe.
21. 1 main shaft.
21. 1 fly wheel.
22. 1 force pump.
23. 1 cold water pump.
24, 25, 26. 3 p'ces moulding.
27. 1 pillow-block plate.

28, 29. 2 pump arms
30. 1 condenser.
31. 1 stop-valve.
33. 1 weighted valve pipe.
34. 1 large do. do.
35. 1 p'e 8-in. pipe 4 square flanges.
36, 37. 2 8-in. do. (straight.)
38, 39, 40. 3 8-in. elbow pipe.
41. 1 brass pump.
1 42-in. boiler, 36 ft.
42. 1 fire front and doors.
43, 44. 2 p's boiler front.
45, 46. 2 side plates.
47. 1 bottom plate.
48. 1 column.
10 grate bars.
49. 1 bearing-bar.
50. 1 flue-pipe.
51. 1 britching.
53. 1 blow-off pipe.
54. 1 check-valve pipe.
55. 1 water receiver.
56, 57. 2 housing side boxes.
17 p'ces 4-in. socket pipe.
58, 59, 60. 3 brackets.
61, 62. 2 rock-shaft stands.
64. 1 do. do. pipe
65. 1 4-in. valve-cock.
66. 1 4-in. S. escape-pipe.
67. 1 4-in. straight do.
68. 1 4-in. elbow do.
69. 1 4-in. straight injection do. (in dispute.)
70. 1 elbow 4-in. steam pipe.
71. 1 elbow 4-in. do. do. with two branches.
72. 1 straight 4-in. do. do. with in. "
73, 74. 2 float-boxes.
75. 1 T. pipe.
76. 1 elbow 4-in. injection pipe.
76. 1 sheet-iron blow-up and copper worm.
77, 78. 2 cast pans for float-boxes.
10 p'ces 2-in. gas pipe.
3 boxes machinery.

Bill of lading referred to in the deposition of Ralph N. Douglass, and made part thereof.

A. R. DUTTON,
U. S. Commissioner.

53,710
3,215

49,495 lbs.

For J. T. & W. Nolan, 139 miles above New Orleans, opposite side.

V. B. M. 3 roller wheels.
1 housing cap.

2,733 lbs. For V. B. Marmillion, 44½ miles above New Orleans, opposite side.

H. 1 20-in. boiler, 30 ft.
1 42 do., 32 feet.
1. 1 britching.
2. 1 mud receiver.
3 to 6. 4 stands for mud receiver.
7, 8. 2 check-valve pipes.
9, 10. 2 blow-off valve pipes.
11. 1 flue plate.
12. 1 p'ce cross steam-pipe.
17 to 20. 4 man plates for filters.
21 to 28. 8 filter pipes.
29 to 52. 23 p'es bottoms for filters.
53. 1 top plate for bone-burner.
4 pipes for do. (1 in dispute.)
54, 55. 2 nozzle plates for do.
56 to 59. 4 binder's " "
60 to 69. 9 drying plates.
91. 1 p'e 5-in. pipe, 2 branches.
95, 96. 2 small cross steam-pipes.
81, 97. 1 small shaft crank and wheel.
85, 99. 1 pinion.
84, 100. 1 small fly-wheel.
101, 102. 2 brass juice-pumps.
103, 104. 2 drum-heads.
105 to 112. 1 clarifier.
113 to 119. 5 sheet-iron troughs.
128 to 131. 4 float-boxes.
4 copper pans.
4 copper worms.
1 box of copper troughs.
3 copper worms for clarifiers.
132 to 135. 4 cast pans for float-boxes.
143 to 147. 4 mud receiver connecting pipes
148 to 153. 6 p's 4-in. steam-pipe.
154. 1 4-in. valve-cock.

155. 1 bundle 1¼ gas-pipe.
156. 1 bundle 1 in. gas-pipe.
157 to 165. 8 small float-boxes.
166 to 173. 8 cast pans for float-boxes.
175. 1 cylinder for doctor.
176. 1 bed-plate.
177, 178. 2 columns.
179, 180. 2 stands for fly-wheel.
181, 182. 2 force pumps.
183, 184. 2 cold water pumps.
18 . 1 beam.
186. 1 fly-wheel.
187, 188. 2 p's moulding.
5 boxes machinery.

(T. C. Twitchell, Hewitt's work, Sept., 1856.)

R. F. FIELDS, *Clerk.*

Total weight 121,423 lbs.

57,128
10,896

46,232 lbs. For James Hewitt, Donaldsonville.

Not accountable for condition of contents of boxes, or rust.

This is the paper referred to by R. N. Douglass as the bill of lading signed by the clerk of the st. bt. "T. C. Twitchell," which paper is attached to and made part of said Douglass's deposition, taken by me on Friday, the 30th day of January, 1857.

A. R. DUTTON,
U. S. Comm'r.

P. B. M. 1 housing bed-plate.
1 juice-pan.
1 spur stand bed-plate.
1 hanger and cap.
1 box machinery.

7,852 lbs. For P. B. Marmillion, 45 miles above New Orleans, opposite side.

6th question. State as near as you can the value of this machinery which you could not recover, which was not recovered by either you or Ford.

Answer. I could not tell the value of this myself. It was considered among us that we had left in the river from three to five thousand dollars' worth.

7. Was any portion of this afterwards got out; and if so, how; what do you know about it?

Answer. There was some portion of it got out by a little bell-

boat; I don't know what portion; I saw some of it in the boat at Cairo.

8. State what knowledge you had, at the time of the injury, of this little bell-boat; where were the regular bell-boats, and why they were not got there?

Answer. I had no knowledge of this bell-boat at the time. I do not think there were any of the regular bell-boats in the Ohio river at that time. Messrs. Eades & Nelson sent a man to the wreck from St. Louis. He stated that if anything was done with that wreck it would have to be done by means of submarine armor; that none of the bell-boats could get there, there was not water enough in the river for them to get there.

9. What was the depth of water at the place where the boat was sunk?

Answer. There was from eighteen to twenty feet at that place where the boat was sunk.

10. State where the said flat-boat was sunk; how it sunk; by what boat, and all the circumstances of the collision.

Answer. She was sunk on the morning of the 8th of August, 1856, about 8 o'clock in the morning. It was a clear morning; there was no fog on the river. We crossed the river from the Illinois side at Cincinnati bar to the Kentucky side. I had straightened my boat down along Cincinnati Towhead in deep water. I had got over the bars. I was an hundred or an hundred and twenty-five feet from the shore in the channel of the river. I think I was half way down the Towhead. The steamboat, Dr. Robertson was coming up the river towing a barge or box-boat; she had the boat in tow on the larboard side. She undertook to run between me and the Kentucky shore, and by so doing she run the larboard gunwale of her barge about six feet over my boat, and run me down immediately. She broke the larboard gunwale of my boat, and pressed the bottom out, because we raised her and found her in that situation. The stern of our flat-boat swung immediately under the bow of the steamboat as she went down. The collision of the two boats caused the steamboat to swing in towards the Kentucky shore, and we stepped aboard the steamboat, and from her on to the shore. We then went immediately below to save the boilers and a nest of boxes that were still floating. When I got them landed the Dr. Robertson had left, and was proceeding on up the river. The steamer could have gone on the outside of us; there was plenty of water outside of us, on the Illinois side of us, as is shown by a map of the river at that place which I have drawn, and which I hereto attach. She could have taken the bar side. She could have cleared me on the inside by pulling off from six to eight feet to the starboard. She could have gone against the shore there quartering, and it would not have hurt her if she had stopped her engine, for the water is deep, and it is a bluff

bank of soft mud and sand. My flat-boat sunk in her tracks; I don't think she moved a foot down the river after she was struck.

She could have gone on the Illinois side of us in deep water in the line marked deep water on the map. I know, because I, with Capt. Ford, measured the water there. I think she could have gone in the channel which I have marked on the map d, e, f, g, for I saw the "Tom Scott" run that channel up and down while I was staying there.

11. State whether there was anything either in the morning, or the bars, or anything on the river, to prevent the pilot of the Dr. Robertson from seeing you in ample time to avoid the collision?

Answer. There was nothing, sir. I think we could have seen one another three miles—yes, three miles—say three miles. I know I could see the steamboat three miles before the collision. I could see over all the bars there, and I could see her when she turned the point of the "Curlew Mines," as marked on the map. All the bars there are low bars; they never appear except in low water.

12. What were you doing at the time you were struck, and a little before? State also whether you hailed the steamboat, and what was said, and whether you heard anything from the steamboat.

Answer. I was standing on my walk-board—that is, the board I stand on to steer, having hold of the steering-oar. I hailed the pilot to "pull off, for he would strike me." He didn't pay any attention to it. He might have missed me easy enough. I heard nothing from the steamboat.

R. N. DOUGLASS.

Re-examined.

Question 13. State the amount of your expenses and those of your crew in staying at the wreck and watching it, and the value of your services, and those of your crew, in getting out this cargo of machinery, and in the assistance you afforded to Mr. Ford. State the usual price for such labor, and what difficulty and hardship there in raising this machinery, and what effect it had upon the divers and those who went down to get up the machinery. State the usage, if there is any, of steamboats when meeting flat-boats; which side of them do they take, according to the customary usage of the river?

Answer. Well, my own crew received a dollar a day and their board while staying there. I don't know anything about Capt. Ford's crew, what they received. I never received anything from Capt. Ford for my services. From the time the boat was sunk until I was finally discharged of the job at Cairo I was engaged in taking care of, watching, and recovering this property, and getting it to Cairo and re-shipping it there, forty-three or forty-four

days. I consider my own services when engaged in that kind of work worth five dollars a day. I can make that at my regular business. I have received an hundred and fifty dollars from the insurance companies. I have receipted to them in full. It is a great deal less than I ought to have had for the hardship I underwent, and for my detention from my other business. There was two of my crew who staid there with me until Ford arrived, and were paid by those who were interested in the business up to that time. It was ten days that we were there at the wreck after the sinking of the boat before Ford arrived. After his arrival he took three of my men into his service, and he paid them; only two of them, however, were paid for staying at the wreck previous to his arrival. It was necessary that I and my men should stay there as we did, in order to watch the property and preserve it and keep it from being stolen. There was property there, valuable property, which could have been fished up with hooks; and we saved some of the property and got it ashore before Captain Ford came. The difficulty and hardship of the service performed in diving and getting up the property was very great. It was very hard work. The effect of diving in such deep water was to force the blood out of the nose and mouth as we came up, and there was a very great pressure of blood upon the brain, causing great pain in the head and at the ears. I know this by my own experience. I done it with Capt. Ford and his men. Steamboats when meeting flat-boats generally take the bar side of them, unless it is a very close place, where they cannot take the bar side. The steamboat usually takes the bar side because the flat-boat naturally drifts with the current into the deep water, and has very little power to control this tendency. They don't have the same rules in meeting flat-boats that they do in meeting steamboats. They take the best course to avoid them, (the flat-boats.)

14. Have you a release; if so, when did you receive it? Please produce it, and attach it to your deposition.

Answer. I have a release. It was given to me yesterday as I was about commencing my deposition. I here produce it and attach it to my deposition.

15. State whether all of the machinery was finally got up and recovered; if not, state what portion of it was lost.

Answer. It was not, sir. There was some of it that was wholly lost—never recovered. I do not know what portion of it, nor the value. I could not tell the value of that portion of the machinery which was got up by the bell-boat; I do not know. I was aboard of the boat and saw the machinery, and I know it was not all there.

And further this deponent saith not.

R. N. DOUGLASS.

Re-examined.

16th question. What, if anything, was there a little above your flat-boat and lying on the shore of the Towhead ; and what effect would that have had upon the running of the Dr. Robertson past you on the Kentucky shore, had she gone on in the direction she was going when she struck you?

Answer. There was a small snag there, but it would not with proper management have prevented her from avoiding the flat-boat. It was a place and there was water enough for a steamboat to have avoided a flat-boat with proper management, any kind of management. She might have gone against the snag if she had gone on in the direction she was going when she struck me.

17th quest. How, if at all, would that snag have affected her had she run up against the shore just before she struck you and laid there? How far above you was the snag when the Dr. Robertson struck your flat-boat?

Answer. It would not have affected her at all. The snag was about opposite my stern when the Dr. Robertson struck me. My boat was ninety-five feet long.

18th. Where did you see the portion of machinery which was got up by the bell-boat? Who took it from the place of sinking to Cairo, and with what; and what was a fair compensation for the services of pilot and men in taking the bell-boat flat to Cairo, according to the prices usually paid under like circumstances?

Answer. I saw it at Cairo, at the mouth of the Ohio. I don't know who took it down to Cairo. It came down in charge of some man while I was there, on the bell-boat flat. I know that fifty dollars would not compensate me for getting that flat down from the place of the wreck to Cairo. I should charge five dollars a day for my services, and the hands would have to be paid a dollar a day, and then there would be the expenses of provisions, and you would have to pay the passage of the hands back.

19th. Look at the bill of lading now shown you, and marked on the margin "C. E. Childen," and say what you know of it and of the property on board.

Answer. This is the bill of lading containing a correct list of the machinery shipped on my flat-boat at Cincinnati. I was to take the machinery to Cairo, and then reship it for its destination, and take a bill of lading.

20th. While you were lying at the wreck did you see any boat pass; and if so, what course she took in passing that place?

Answer. I saw the "Tom Scott" pass up and down; she took the channel marked d, e, f, g, on the map; I think she took that channel every time she passed, both going up and down; other boats run always outside of me, the place where I was sunk, between me and the Illinois shore; while we lay with our box-boats over the wreck, all boats ran on the outside of us, between us and

the Illinois shore both up and down; our box-boats did not lie outside of the wreck, but over the wreck, and all boats ran outside of us; I think it was from carelessness, incompetency, or recklessness, that we were run over.

R. N. DOUGLASS.

[*For map see original, page* 157.]

This map or diagram was before the witnesses whose deposition it accompanies; it was drawn by the witness, R. N. Douglass, and is referred to in his deposition, also in the deposition of Geo. W. Ford, James Fife, Julian Douglass, Alexander Ford, Frank Stein and Wiley McGee, all of whom speak more or less definitely with regard to the correctness of it as a representation of the Ohio river at a particular point. The said map or diagram is, therefore, attached to their depositions as a part of their testimony.

A. R. DUTTON,
U. S. Commissioner.

Release to Douglass.

Release—part of depo. of Douglass:

Know all men by these presents, that the undersigned, for and in consideration of one dollar, and other good and valuable considerations them moving, the receipt of which is hereby acknowledged, have released and discharged, and by these presents do release and discharge, R. N. Douglass of and from any and all damage or claim to damage for and on account of an injury to a flat-boat, upon which was a large lot of machinery belonging to the Niles Works, and which happened on the Ohio river, a few miles below Shawneetown, at the Cincinnati Towhead, and whereby a large amount of said machinery was injured, sunk and lost, and in consequence of which heavy expenses were incurred in raising the same; s'd injury having happened from a collision with the "Dr. Robertson" steamboat with the said flat. The object of this release being to discharge the said Douglass from any and all liability or supposed liability to the undersigned, or either of them, because of said collision, injury or loss, to free him from any interest or supposed interest in a suit now pending in the district court of the United States for the district of Kentucky, wherein the Niles Works are libellants and the said steamer respondent.

In witness whereof the parties have affixed the seal of the said companies, together with the signature of the said companies, by their duly authorized agents.

NILES WORKS, [L. S.]
By C. W. SMITH, *Sec'y.*
WASHINGTON INSURANCE CO., [L. S.]
By WM. GOODMAN, *Pres.*
MERCHANTS' & MAN'G INS. CO., [L. S.]
B. B. WHITEMAN, *Sec.*

Depo. of Julian Douglass.

Deposition of Julian Douglass:

1 question by counsel for the libellants. Please state your age, residence and occupation, and whether you expect to leave your place of residence, how soon, and when you intend to go?

Answer. I am twenty-one years of age; I reside in Cincinnati; I shall leave soon as ever the ice in the river breaks up; I don't know how soon that will be. I intend to go to New Orleans as pilot on the river; I am a pilot on the river between Cincinnati and New Orleans. It is since last December that I have had a license as a steamboat pilot; I have stood my watch as a flat-boat pilot for the last two or three years.

2. State what connection you had with the flat-boat in which the Niles Works shipped a large amount of machinery, and which was sunk in the Ohio river some time in August last near Cincinnati Towhead, about six miles below Shawneetown. State where you were standing at the time of the collision, and all that you saw, and all the circumstances connected with the collision.

Answer. I was second pilot of the flat-boat; I was standing on the walk-plank on which you walk across with the steering oar. My father was at the steering oar, and I was standing alongside of him when the boat struck us—the barge of the Dr. Robertson; she struck us right in the bow on our larboard quarter, and the coal flat or barge, as it is called, slid up on our gunwale thirty or forty feet; the stern of our flat-boat then swung around against the bow of the steamer. As soon as we saw that our boat was sinking, I jumped down into our boat on to the floor, and threw my trunk and my father's clothes out on to the bow of the steamer. She sunk then; we hardly had time to get off before she sunk. The Dr. Robertson had then floated in against the island by that time; we took our things off from her, what we had saved, and put them off on to the bank; the Dr. Robertson then went on—went right over the boat where she sunk; we succeeded in landing three boilers, one box, four copper tanks; we made them fast to the shore, and then we went down to Caseyville to enter a protest. I staid in Caseyville, and my father and two or three of the crew, three I think, went back to the wreck to watch it. We could see the Dr. Robertson a mile and a half off before she struck us; our flat-boat was lying right straight up and down the river—that is, straight with the shore opposite to us; we were about twenty-five yards, I suppose—it is guessing; I didn't measure it—from the left-hand shore—the Kentucky shore. She sunk with her stern quartering in. When the Dr. Robertson struck us, our bow swung out quartering into the river, and threw our stern in towards the left-hand shore.

3. State what could have been done by them on the flat-boat more than was done to avoid the collision, and what could have been done by those on the Dr. Robertson to avoid it.

Answer. We on the flat-boat couldn't have done anything more than we did do; we couldn't do anything; we threw the bow out with the gouger, and the stern out at the same time, to throw her out into the river one or two strokes, but that didn't do any good; I don't suppose we moved her hardly at all; it takes a good many strokes to move a flat-boat much.

The Dr. Robertson could have avoided it in two ways; she could either have landed against the shore and waited till we got by, or she could have gone outside of us; there was plenty of water outside of us to her left, where she could have gone between us and the box; she could also have stopped and backed away from us; she could have seen us, and the pilot did see us, well enough.

4. State what there is, if anything, at that place in the river, in the shape of bars or islands, which could prevent her from seeing you a mile or a mile and a half off.

Answer. There is not any bar or islands which could prevent her from seeing us; from out of the pilot-house you can see over the tops of all the bars there.

5. What other channel is there besides the one where you were, which she was running?

Answer. At that stage of water there was no other channel but the one she was running, but that was three hundred yards wide at the time; there was ample room for her to have gone outside of us, plenty of room; sometimes boats run out round the bar, and sometimes they run by the island; it is deep water clear across there, up to the reef marked "shoal water" on the map; she might have followed the channel marked on the map d, e, f, g, or she might have gone anywhere between that channel and d, b, i, g, until she came to the reef marked on the map "shoal water," and then she would have to take one or the other of those courses.

6. Who was the pilot at the wheel at the time, and had the boat Dr. Robertson in charge?

Answer. Well, I can't say who was the pilot at the wheel at the time; John Cotter and James Fife were the pilots on the boat at the time.

7. Who was the pilot of the flat-boat and had her in charge?

Answer. Mr. R. N. Douglass.

8. Do you know what the expenses of getting out this property that was sunk with the flat-boat was; do you know where the bell-boats were at the time?

Answer. I do not know what the expenses of getting the property out was; the bell-boats were in the Mississippi river somewhere—I don't know where; there was not water enough for them in the Ohio.

9. What means were there down there at the time of recovering this property, so far as you know?

Answer. I don't know of any; Mr. Mulford offered to get it out, but he wanted one-third of the value of it, and father wouldn't give it to him; he had a steamboat down there and some coal barges; the steamboat "Stella Blanche."

10. What was the stage of water over the shoalest bar in the river at the time?

Answer. Twenty-four inches was the shoalest bar we found going down; Scuffletown bar.

11. State what fog there was that morning, if any; what time in the morning did the collision take place?

Answer. There was no fog; it was a clear, bright morning, the collision occurred between seven and nine o'clock in the morning. And further this deponent saith not.

JULIAN DOUGLASS.

And this was all the testimony heard on the trial.

Decree.

And afterwards, in the said circuit court, on Monday, 1st day of November, 1858, came again the parties, by their proctors, and the court being now advised, and the premises having been fully considered, it is considered by the court that the opinion and decree of the district court be and the same is affirmed.

It is therefore ordered, that the appeal of the libellants (the said Niles Works) be, and the same is dismissed.

It is further ordered, that the libellants (the said Niles Works) pay to the defendants, Jesse W. Page and J. C. Leake, owners and claimants of the steamer Doctor Robertson, their costs in their claim and defence in the district court, and in this court, upon the appeal expended.

Appeal Granted.

And on the same day came again the libellants, by Smith and Harlan, esqs., their proctors, and the defendants, by T. N. Lindsey, esq., their proctor.

And on the motion of the libellants, by their proctors, an appeal is granted them from the decree of this court, at its present term, to the Supreme Court of the United States, on condition that they, the said libellants, shall, within twenty days from this day, cause to be entered into a stipulation for the benefit of the claimants with good and sufficient surety, for the sum of one thousand dollars, for the payment of all such damages and costs as shall be recovered against the libellants in the Supreme Court.

The stipulation may be entered into before the clerk, or before any commissioner of a circuit court of the United States, the surety being a citizen of the State of Kentucky.

The defendants waive any service of a citation herein.

And on the same day this order was made herein:

Order settling Testimony.

The libellants read on the trial in this court the depositions of his witnesses, S. C. Barnet, Alexander Ford, William B. Edmondson, William H. Jeffries, Alexander Ware, John Walker, E. Dougherty, W. P. Lamoth, G. W. Ford, John H. Farrell, Joseph Ford and Samuel Brickell; and examined ore tenus in court the witnesses Julian Douglass, Frank Stein and R. N. Douglass, and their testimony having been taken down by the clerk and settled, is annexed to the libellants' depositions.

The defendants read the depositions of their witnesses, Thomas D. Mitchel, E. R. Marling, B. A. Joyce, L. C. Merritt, B. J. Caffrey, William T. Yeatman and H. Winter, and examined ore tenus his witnesses, M. Seaberry, J. L. Armstrong, John Kirkpatrick and John Cotter, and their testimony was in like manner taken down in writing, and having been settled, is annexed to the depositions.

The defendants moreover read the depositions of the witnesses R. N. Douglass and Julian Douglass, whom the libellants had examined.

And the appeal having been prayed and allowed, the said depositions and testimony so given ore tenus in court, together with the opinion of the judge thereon, is made part of the record, and ordered to be inserted in the transcript for the Supreme Court on the appeal.

The following is the opinion of the presiding judge herein, and made a part of the record:

Opinion.

The libellants' flat-boat was sunk August 8th, 1856, in the Ohio river, at 8 o'clock in the morning, at the Cincinnati Towhead, by collision with a flat-boat in tow of the stern-wheel steamboat Doctor Robertson. The day was fair.

The Towhead is about four hundred yards long, with a firm bank; is on the Kentucky side of the Ohio; the bank is nearly twenty feet high, and the water deep to it, so that a steamboat could land safely against it.

The Robertson was coming up slowly, hugging the bank on the Kentucky side; the shore is almost straight; opposite the upper end of the Towhead there is a sand-bar, where the water is shallow and the bar difficult to get over by boats. This had been crossed by Douglass's flat, and just behind his boat were two other flat-boats lashed side by side; they crossed the bar between fifty and a hundred yards behind the front boat; were probably nearer a hundred yards behind than fifty. Douglass had stern and bow sweeps, and side oars. He threw his boat into the stronger current, which swept to the upper end of the Towhead; not far below this point there was a shoulder in the bank, that threw the current

towards the Illinois side; there Douglass straightened out his boat and floated with the current, and most of those on board say about one hundred feet from the shore, leaving quite room enough for the Robertson to pass inside next the shore. Ford threw his two flats further out into the channel, say about thirty yards.

All this was plainly seen by the pilot of the steamboat. The boat of Douglass was eighteen feet wide and ninty-five feet long; Ford's two boats were forty feet wide, and about the same length; had they been abreast, they would have been thirty yards apart, say eighty or ninety feet. This is as near the truth as can be ascertained from the uncertain evidence.

The width of the channel from the sand-bar next to the Illinois side, and the bluff shore on the Kentucky side of the river, is seventy-five yards; this fact is very satisfactorily established; the narrowness of the channel produced all the difficulty.

The pilot of the steamboat had to choose how he would act. Douglass's boat took up about one hundred feet next the Kentucky shore, according to the libellants' witnesses, supposing it was only eighty feet from the shore; then there was, say eighty feet between Douglass's boat and Ford's boats; and in addition they took up forty feet. This makes two hundred and twenty feet. The channel where the steamboat could run between the Kentucky shore and the Illinois bar being seventy-five yards, or two hundred and twenty-five feet, two choices were left to the steamboat, either to go up the bank of the Towhead, or to run between the two boats of Douglass and Ford. Cotter, the pilot, then at the wheel, says, that had he attempted to run outside of Douglass's flat, he would have run into Ford's flat. Furthermore, that Douglass plainly indicated when he passed the shoulder of the Towhead, and straightened up, that he intended to pass on the outside of the steamboat on her larboard, and therefore he hugged the bank as close as he could with safety; and that when he, Cotter, saw the danger of collision, he could not back his boat, as she was *was* encumbered with her tow, being a flat seventy feet long, eighteen feet wide, and having three hundred bales of cotton on her; that had this been attempted, she would have been thrown across the channel and struck by Douglass's boat and Ford's flats.

This Douglass did indicate that the steamboat should hold her place near the shore is proved by the libellants' witnesses. They say there was room inside of Douglass's boat for the Robertson to pass, and that no collision would have taken place, but for one circumstance (on which the case depends, in my judgment,) which circumstance is this: that the Robertson, as is alleged, when the collision occurred, turned off from the bank, throwing her bow out from it into the track of the flat, to avoid a snag about twenty feet from the shore, and thus caused the accident.

Then snag was there, and had to be passed on the starboard side

of the steamboat; it was some forty or fifty feet in advance of her bow—Douglass says ninety odd feet; Douglass is correct, most probably, as the stern of the sunk boat lay opposite the snag; she was ninety-five feet long and "sunk in her tracks," as Captain Douglass states.

Now, did the steamboat throw out her bow? All on board who have deposed state that the engine was stopped, and at the point of collision several strokes had been made by the wheel to back her; but it is manifest her headway had not been entirely checked; still it is satisfactorily proved that she was near to the bank, within twenty feet of it, when the larboard gunwale of the flat struck the tow about its larboard gunwale, a few feet inside of it—Captain Douglass says six feet inside. She went suddenly into the bank by the stroke, and was so close, say some of the witnesses, when she struck, that a man could have sprung on shore. That the bow of the Robertson was close to the bank, and moving little or none, when her tow came in collision with the flat, is too distinctly proved to admit of much controversy. The steamer was almost instantly after the collision at the shore, and the hands were out with a line, and cabled her on the bank.

I am of the opinion that the Robertson rightfully hugged the bank, and that the collision occurred because the flat was not thrown further out into the current, which all admit could have been done with ease; but it was not attempted, from the confident belief of Captain Douglass that the berth for the steamboat was wide enough to avoid danger until it was too late.

A general principle is relied on to sustain the allegations of the libel.

Douglass, the commander of the sunken flat, in his evidence given before the court, says he was straight with the current, yet was drifting in towards the Kentucky shore, and narrowing the berth of the steamboat, which had come up the bank for several hundred yards below where the accident occurred; and when asked why he did not pull further off from that side, and to the middle of the channel, answered that his men were resting from the labor they had undergone in crossing the bar above; that the best side for him to get on was near the Towhead, where the current was strongest, and that it was the business of the steamboat to miss him at all events, he having the right to float where he saw proper.

The argument assumes similar grounds. As a general rule the flat-boat is bound to go near the middle of the channel, and then the steamboat is bound to miss her; but this rule applies where there is plenty of sea-room, whereas it would be improper to apply it here.

If the Robertson had attempted to go to the right of the flat

when danger was first apparent, she must have squared off suddenly across the channel.

She was of five hundred tons burthen, and, including her stern-wheel, two hundred feet long; from the low stage of water she had to run nearly empty; she only drew some twenty inches in the water; was tottering on its surface, and on a sudden turn her heavy tow on the larboard would probably, not to say certainly, have carried her head with the current, thrown her across the channel of two hundred and twenty-five feet, and filled it up; and yet it is insisted that she should have gone over to the Illinois side near the sand-bar, where Ford's flats were floating—I say near to the sand-bar, because the Robertson and her tow were nearly sixty feet wide, and required a berth of a hundred feet. The channel was only two hundred and twenty five feet wide. Of that channel Douglass admits his boat occupied a hundred feet next the Kentucky shore, and proves that Ford's boats were navigating on the other hundred and twenty-five feet, where, if the Robertson had gone, no matter when, after the three flats had entered the channel, she must have run down Ford's boats. Under these circumstances Douglass, seeing the Robertson coming up hugging the bank, and seeing Ford's boats haul out and occupy the water next the sand-bar, was bound to haul out likewise, and leave room for the steamboat next the Kentucky shore, as Ford did.

(Signed) J. CATRON.

Appeal Bond.

On the 19th day of November, 1858, the following appeal bond was filed herein:

Circuit Court of the United States for the district of Kentucky.

THE "NILES WORKS," Libellants and Appellants,
against
THE STEAMBOAT DR. ROBERTSON and JESSE W. PAGE and Joseph C. Leake, Claimants.

Know all men by these presents, that we, the Niles Works, a company incorporated by the laws of Ohio, as principal, and Daniel A. Gliddon as surety, of Covington, in the county of Kenton and state of Kentucky, are firmly bound unto the above named Jesse W. Page and Joseph C. Leake, claimants, in the sum of one thousand dollars, to be paid the said appellees, for the payment of which, well and truly to be made, we bind ourselves and each of us, our heirs and each of our heirs, executors and administrators, firmly by these presents. Sealed with our seals, and dated this 18th day of November, in the year one thousand eight hundred and fifty-eight.

Whereas the above named appellants have prosecuted an appeal

to the Supreme Court of the United States, at the city of Washington, in the District of Columbia, to reverse the decree rendered in the above suit in the circuit court of the United States for the district of Kentucky:

Now, therefore, the condition of this obligation is such, that if the above named appellants shall prosecute their appeal to effect, and answer all damages and costs if they fail to make their appeal good, then this obligation shall be void, otherwise the same shall be and remain in full force and virtue.

NILES WORKS, [L. S.]
C. W. SMITH, *Sec'y.*
D. A. GLIDDEN. [SEAL.]

Taken and acknowledged before this 18th day of November, A. D. 1858.

GEO. E. LEIGHTON,
United States Commissioner, within and for the Seventh circuit and southern district of Ohio.

UNITED STATES OF AMERICA,
Southern District of Ohio, ss.

Daniel A. Glidden, being duly sworn, deposes and says, that he is a resident and citizen of Covington and the State of Kentucky, and that he is worth the sum of two thousand dollars, over and above all his just debts and liabilities.

D. A. GLIDDEN.

Sworn to and subscribed before me this 18th day of November, 1858.

G. E. LEIGHTON,
United States Commissioner for the seventh Circuit and southern district of Ohio.

Costs.

Libellants':	In district court		$184 11
	In circuit court:		
	Clerk	$67 30	
	Marshal	1 50	
	Depo's		
	Witnesses	68 40	
	Atto. and dep	50 00	
			187 20
			$371 31

Defendants':	In district court	$149 55
	In circuit court:	
	Clerk	26 10
	Marshal	58 80
	Depo	6 00
	Witnesses	84 10
	Atto. and dep	44 50
		$369 05

UNITED STATES OF AMERICA,
Circuit and District of Kentucky.

I, John A. Monroe, clerk of the circuit court of the United States for the district of Kentucky, certify that the preceding one hundred and seventy-seven pages (this included) contain a full and true transcript of the record of the proceedings had in said court in the cause named in the caption.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of said court this twenty-seventh day of November, A. D. 1858.

[SEAL.]

JOHN A. MONROE,
C. C. C. K. D.

Filed 10th December, 1858.

UNITED STATES OF AMERICA,
Southern District of Ohio, ss.

The President of the United States of America to William M. Trevor, greeting:

[SEAL.]

Whereas, in a certain cause now pending in the Supreme Court of the United States, wherein C. G. Pearce and others, incorporated as the Niles Works, are libellants, and the steamer Dr. Robertson, Jesse W. Page, and Joseph C. Leake, are claimants and appellees, there was, on the 26th of October last, a motion made for a commission in this case, and interrogatories filed therewith: and whereas on the 27th day of October, A. D. 1860, the following order was made, to wit: On application to the circuit court of the United States in and for the southern district of Ohio, it was ordered by said court, under the direction of the Honorable John McLean, one of the judges thereof, that a commission issue to William M. Trevor, of Cincinnati, Ohio, to take the testimony of William H. Searles, Ralph N. Douglas, Alexander Ford, Miller, and others, in answer to the interrogatories herewith filed, and any cross-interrogatories that may be filed, to be used in evidence in the above cause in the Supreme Court:

Therefore, know you that we, in confidence of your prudence and fidelity, have appointed you, and by these presents do give to you full power and authority to examine and take the deposition of witnesses in the above named cause; and therefore we command you, that at certain days and places to be appointed by you, you cause such witnesses to be brought before you, and then and there examine each of them on their respective corporal oaths, first taken before you, and that you reduce such examination to writing and return the same, together with this writ, closed up under your seal, into said Supreme Court of the United States, with all convenient speed. (Two interlineations on 1st page, made by me before issuing.)

Attest: JNO. McLEAN, JR.,
Clerk of the Circuit Court of the United Sates within and for the Southern District of Ohio, this 23d day of November, A. D. 1860.

The interrogatories filed in this office, on the 26th day of October, 1860, and referred to in the foregoing order, are as follows, to wit:

[REC. XXVII, D. T., 1859.]—1

Supreme Court of the United States.—In Admiralty.

CHRISTOPHER G. PEARCE and others, incorporated as "The Niles Works,"
vs.
THE STEAMER DR. ROBERTSON.
} Appeal.

Interrogatories to be propounded to William H. Searles, R. N. Douglas, Alexander Ford, Miller, and others, on the part of the libellants and appellants.

First. State your age, residence, occupation, where and how long you have followed it, and in what particular capacity.

Second. Are you acquainted with the Ohio river, at the Cincinnati tow-head, some six or eight miles below Shawneetown, Illinois; if so, how long have you been acquainted with it, and how did you become so?

Third. Have you made any measurements of the width of the navigable channel opposite the tow-head; if so, when and how were they made, and what was the result? Did you measure the depth of the water there, and what was the result? State also the stage of water in the river at the time it was made.

Fourth. Have you made a map of the river there with your measurements? if so, present it and attach it, or a copy of the same, and explain it fully and particularly.

Fifth. Have there been any changes there since the loss of Douglass's flat-boat, in August, 1856; if so, what are they? Are there any sunken flat-boats near there? if so, point them out on the map, and state when they were sunk, where they were from, and what water they drew at the time. How much do such boats generally draw? What, if any changes, have they caused, and are they inside or outside the navigable channel for steamers drawing three feet at the time of said loss?

Sixth. How do you know where that channel was in 1856, when said boat as lost? What is the distance from the tow-head to the said coal-boats? What is the width of the river opposite the tow-head, and what the width between the Kentucky shore and the dry bar just below?

Seventh. Do you know, or can you set forth, any matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this examination, or the matters in question in this cause? if yea, set forth the same fully and at large in your answer.

LINCOLN, SMITH & WARNOCK,
Proctors for Libellants and Appellants.

The foregoing is a true copy of the original interrogatories, as the same remain on file in my office.

JNO. McLEAN, JR., *Clk, &c.*

UNITED STATES OF AMERICA,
Southern District of Ohio, sct.

Be it remembered, that on the twenty-fourth day of November, A. D. 1860, before me, William M. Trevor, a commissioner appointed by the circuit court of the United States for the southern district of Ohio, to take testimony in a certain cause hereinafter named, and acting as such, and duly authorized under and by virtue of the annexed commission to take the testimony of the witnesses named in said commission in answer to the interrogatories attached thereto, to be used in the Supreme Court of the United States, in a certain cause, wherein Christopher G. Pearce et al., incorporated as the Niles Works, are appellants against Jesse W. Page and Joseph C. Leake, claimants of the steamboat Doctor Robertson, personally appeared at Cincinnati, in said southern district of Ohio, Ralph N. Douglass, Alexander Ford, William H. Searles, A. B. Miller, and T. D. Lincoln, of sound mind and lawful age, witnesses on behalf of the appellants in the above named cause now pending in the Supreme Court of the United States.

And the said Ralph N. Douglass, being by me first cautioned, examined, and sworn to testify the truth, the whole truth, and nothing but the truth, in answer to the said interrogatories filed, deposes and says:

In answer to the 1st interrogatory the witness says: I am fifty-two years of age; I live in the city of Cincinnati; I am a flat-boat pilot; I have been piloting about twenty years, from Cincinnati to New Orleans.

2d. In answer to the second interrogatory the witness says: I am acquainted with the Cincinnati tow-head; I have been acquainted with it ever since I have been a pilot, and became so by piloting there. I had a flat-boat sunk there in August, 1856. I was there thirty days trying to save the wreck. I was all over it every day in a skiff.

3d. In answer to the 3d interrogatory the witness says: I was there with Mr. Searles and Mr. Miller and Mr. Ford, in the last week of September last, for three days, surveying it, and measuring the depth of water. I made careful measurements of the width of the navigable channel. The measurements were made by regular surveyors, with their instruments. I showed Mr. Searles and Mr. Miller where the channel was when I was sunk, and the place where I was sunk, and they made careful measurements, and the width of the deep water. The deep water was wider when I sunk than it is now. Mr. Searles kept the measurements in his book, and I can't tell them exactly.

There was about forty inches water in the river when the measurements were made; about a foot more than at the time of the accident.

4th. In answer to the 4th interrogatory the witness says: I have not made a map lately; I made one which was attached to my testimony on the former trial. Mr. Searles has made one from his survey.

5th. In answer to the 5th interrogatory the witness says: Since the loss of my flat-boat in 1856, there have been changes; the crossing is lower down the river; the bar is about the same shape, but the crossing is lower down; the head of the slue, behind the old tow-head, has entirely filled up; the head of the old tow-head shows by the jog on Searles's map marked ; Searles's map is now before me. The sunken flat-boats have thrown more sand in towards the tow-head, making it narrower than it was in 1856, opposite the upper wreck. The positions of the sunken boats are marked correctly on the map. They are a little nearer the tow-head than the outside of the channel was in 1856—that is, the deep water extended further out. They have also caused shoal water under them and around them. These boats were sunk this season; I think they were from Pittsburgh; I do not know what water they drew at the time, but they generally draw six or seven feet.

6th. In answer to the 6th interrogatory the witness says: I know where the channel was in 1856, because I steered my own boat, and was there when she sunk, and I stayed there thirty days after that. I do not know definitely the distance or the width mentioned; it was measured by the surveyor with his instruments.

7th. In answer to the 7th interrogatory the witness says: I pointed out to the surveyor correctly where the boat sunk, and the place and width of the channel as it was at that time. I have now before me a map made by Mr. Searles, which is correct. There was still room when we were there in September, 1860, for any two boats to pass one another, although the bar has made in toward the tow-head and made it narrower. The upper bar has made down and made closer in to the Kentucky shore, making the deep water narrower alongside of the tow-head. I received a release from the libellants before my first deposition was taken, and I have no interest in the event of this suit. My boat was sunk about opposite the upper sunken boats, as near as we could judge; and the channel, at that time, was alongside the tow-head, and the deep water extended out beyond where these two boats lay. I knew where the boat was sunk by the timber where we camped; we camped right at the wreck. The crossing in 1856 was above the upper flat-boats, and is now just below the lower sunken boat.

R. N. DOUGLASS.

Subscribed in my presence, and sworn to before me.

WILLIAM M. TREVOR,
Commissioner.

And the said Alexander Ford, being by me first cautioned, examined, and sworn to testify the truth, the whole truth, and nothing but the truth, in answer to the said interrogatories filed, deposes and says:

In answer to the 1st interrogatory the witness says: I am thirty-two years of age; I live in Hamilton county, Ohio; I am a steamboat pilot; I have been a pilot between six and seven years from Cincinnati to New Orleans.

In answer to the 2d interrogatory the witness says: I am acquainted with the Ohio river at the Cincinnati tow-head, and have been for some six or seven years; I became acquainted with it by flat-boating and steamboating on the river; I have been on the river ten or twelve years, pretty much all the time.

In answer to the 3d interrogatory the witness says: I was with Mr. Searles when he measured the river at the tow-head in October last; he took the depth of water and the distances. So far as I know, I believe it was carefully measured by him with instruments; the stage of water in the river at that time was about three feet, that was reported at Scuffletown; at the tow-head it was five and a half feet in the crossing.

In answer to the 4th interrogatory the witness says: I made no map; Mr. Searles made one.

In answer to the 5th interrogatory the witness says: Since the loss of Douglas's flat boat in 1856, the old channel has filled up and the channel is further down; the tail of the bar has made further down, and it is nearly dry opposite where Douglas's sunk, and is a hundred and fifty yards out. There are three sunken flat-boats there; they are marked on the map in red; the two upper ones are right together; they were sunk last summer some time; they look like Pittsburgh coal-boats; they generally draw fromsix to seven feet. They have caused it to fill up some between the two boats and right around them; between the tow-head and the boats there is no material change, except what is caused by the boats; the upper bar has tailed down a little; that bar is indicated by dotted lines, and was covered by a little water when we were there. The bar near the coal-boats has made in towards the tow-head a little; the channel at that time extended further out than it is now, the tow-head having washed away a little. The coal-boats are outside the channel for steamboats drawing three feet at that time.

In answer to the 6th interrogatory the witness says: I know where the channel was in 1856, by marks on the tow-head and on the Illinois shore. At the time Douglass's boat sunk, I was about a hundred or a hundred and fifty yards behind him at the time of collision, and after he sunk I anchored, to afford him any assistance I could. I have been on the river from that time to this. I can't tell the distance of the coal boats from the tow-head, nor the

width of the river. Mr. Searles measured it from the tow-head to the coal-boats and from the Illinois shore to the tow-head.

In answer to the 7th interrogatory the witness says: I pointed out to Mr. Searles where the channel was in 1856, and the width of the deep water as it then was. Douglass's flat-boat was sunk about opposite the upper coal boats. The crossing is better now; there is deeper water now than when Douglass's boat sunk; it is now below the lower coal boat; it was then above the upper coal boats and above the foot of the upper bar, indicated by the dotted lines. At the time Douglass's boat sunk, the channel between the tow-head and the bar was wider than it now is between the tow-head and the sunken coal boats; that is, there was more room for boats to pass than there is now between the tow-head and the coal boats, the navigable channel extending further out from the tow-head than where the coal boats lie.

ALEXANDER FORD.

Subscribed in my presence and sworn to before me.

WILLIAM M. TREVOR,
Commissioner.

And the said William H. Searles, being by me first cautioned, examined, and sworn to testify the truth, the whole truth and nothing but the truth, in answer to the said interrogatories filed, deposes and says:

1st. In answer to the 1st interrogatory the witness says: My age is 23 years; my residence Cincinnati, Ohio; I am a civil engineer; I have followed that profession in Cincinnati since the 1st of September last. I graduated at the Rensselaer Institute, in Troy, New York, in July last; I was at the institute two years and a half, and during that time had a good deal of experience in all sorts of field-work and river surveys. At present I am assistant engineer on the Marietta and Cincinnati Railroad, making surveys from Loveland to this city.

2d. In answer to the 2d interrogatory the witness says: I am acquainted with the Ohio river at Cincinnati tow-head; I have been so since the latter part of September last, from a survey which I myself made. I went down there with Mr. Miller, my assistant, and with Mr. Ford and Mr. Douglass, and spent several days there making this survey, and soundings of the river, and measuring distances.

3d. In answer to the 3d interrogatory the witness says: I made measurements of the width of the navigable channel opposite the tow-head, by means of a system of triangulation. The whole width of the river at the point where the two coal boats are sunk is eight hundred (800) yards. The width of the old channel, or what remains of it, between the *the* tow-head and the sunken coal boat, is one hundred and fifty (150) yards. I was informed that

the navigable channel previously extended beyond these boats; this is opposite the point where I was told the flat-boat in question sunk. The width of the channel between the tow-head and the lower sunken coal boat is six hundred and seventy-five (675) feet. I measured a number of lines of sounding which are put down in figures on the map hereto attached. I don't know the stage of water, as I did not measure it at the shoal bars.

4th. In answer to the 4th interrogatory the witness says: I made a map, which is now before me and which I attach, marked Exhibit "A." The map with the colors and figures upon it will explain itself.

5th. In answer to the 5th interrogatory the witness says: I find between the Cincinnati tow-head and these coal-boats the deepest water in this portion of the river, and it was evidently once the main channel, but now a bar indicated by the dotted line is gradually making down and closing up the old channel; also the sinking of these boats has caused new bars around them, which also tends to fill up the channel. This will be evident from the soundings given. There are three sunken coal-boats there, indicated by the red squares or parallelograms, which a resident informed me were sunk last June. I do not know where they were from, nor how much water they drew. They have caused bars to form about them which seem to be increasing in size. I was informed by Douglass and Ford, that they lie within what was then the navigable channel; I was also so informed by the pilot on the boat I was on in passing there. I was in the pilot-house and he pointed out to me the old land-marks as we went down.

6th. In answer to the 6th interrogatory the witness says: I infer the place of the channel in 1856, from the indications I have already mentioned, and from the information I got from Douglass and Ford. The distance from the tow-head to the upper coal-boats is 450 feet, and to the lower coal-boat is 675 feet. The width of the river opposite the tow-head is 800 yards. The width from the Kentucky shore to the dry-bar below, across the feather of the arrow on the map, is fourteen hundred and fifty (1,450) feet.

7th. In answer to the 7th interrogatory the witness says: Inside of the foot of the tow-head, I found deep water sufficient for a steamboat to run her bows into, so as to be entirely out of the main channel. There is deep water close up to the shore at the tow-head. The brown stripe indicates an old channel which is always filled at high-water, and the land between the brown stripe and the river is called the large Cincinnati tow-head; the tow-head proper being only the enlarged lower end of it.

Mr. Miller, who was my assistant in this survey, is an engineer of considerable experience; and I believe that we have made an accurate survey, of which this map is an accurate representation.

The base line is taken on the Illinois shore opposite the upper sunken flat-boat.

WM. H. SEARLES.

Subscribed in my presence and sworn to before me.

WILLIAM M. TREVOR,
Commissioner.

And the said A. B. Miller, being by me first cautioned, examined, and sworn to testify the truth, the whole truth, and nothing but the truth in answer to the said interrogatories filed, deposes and says:

1st. In answer to the 1st interrogatory the witness says: My age is thirty-one years; my residence Cincinnati, Ohio; I am a civil engineer and surveyor; I have followed that profession in the States of New York, Illinois, and Wisconsin, and in Cincinnati; I have followed it about ten years; I have been engaged principally on railroads and land surveying.

2d. In answer to the 2d interrogatory the witness says: I am acquainted with the Ohio river at Cincinnati tow-head; I was there from the 27th to the 29th of September last, inclusive, with Mr. W. H. Searles, Mr. Douglass, and Mr. Ford, and assisted in making a survey of the river at that point.

3d. In answer to the 3d interrogatory the witness says: I did, in connection with Mr. Searles, make measurements of the navigable channel there; we worked in unison and checked each other's work; we made the measurements by triangulation. The river at the point where the two coal-boats are sunk is eight hundred (800) yards wide. The distance from the tow-head to those two coal-boats is one hundred and fifty (150) yards. I was told that the navigable channel was formerly just where those two boats are sunk, and extended further out than they are, and also on the other side to the tow-head. The distance from the tow-head to the lower sunken coal-boat is 675 feet. I measured some of the depths on the lines of soundings, and the figures on the map attached to Mr. Searles' deposition are correct, I believe. While Mr Searles and the other men took the soundings, I stood on the lower coal-boat and took the angles with an instrument, and I know the direction of the lines of sounding marked on the map are correct. The water was at a very low stage, but I don't know the exact stage.

4th. In answer to the 4th interrogatory the witness says: I made a sketch of the river, and the map made by Mr. Searles and attached to his deposition corresponds with my observations.

5th. In answer to the 5th interrogatory the witness says: From observation, I should say that the channel was formerly on the Kentucky side of the river and between the tow-head and the coal-boats, including the place where the coal-boats now lie. A bar

making down from above, and the boats sunk in the channel, have a tendency to close up the channel, and crowd the channel out to the other side of the river.

The red parallelograms on the map indicate the position of the sunken coal-boats; I do not know when they were sunk nor where they were from.

Bars are making now in the vicinity of the boats, which have a tendency to fill the channel.

From what I understood from Douglass and Ford, and a Mr. Williams, who lives there, I think these boats are within what was the navigable channel at the time of the loss of Douglass' boat, but near the north side of it.

6. In answer to the 6th interrogatory the witness says: I learn where the channel was, in 1856, from Douglass and Ford, and the people who live there; and I judge where it was from the shape of the river and the make of the shore and bars.

The distance from the tow-head to the upper sunken coal-boats is 150 yards, and to the lower one is 675 feet; the width of the river opposite the tow-head is 800 yards; the width from the Kentucky shore to the dry bar is about fourteen hundred and sixty (1,460) feet, where I measured it, across the arrow.

7. In answer to the 7th interrogatory the witness says: There is a body of water between the foot of the tow-head and the main shore which was deep enough for a steamboat to run her bow into without any trouble, and be entirely out of the channel, I think.

A. B. MILLER.

Subscribed in my presence, and sworn to before me.

WILLIAM M. TREVOR,
Commissioner.

And the said T. D. Lincoln, being by me first cautioned, examined and sworn to testify the truth, the whole truth and nothing but the truth, in answer to the said interrogatories filed, deposes and says:

In answer to the 1st interrogatory the witness says: I am over 40 years of age; I live in Cincinnati, Ohio; I am an attorney at law.

In answer to the 2d interrogatory the witness says: I am not acquainted with the river at that place.

In answer to the 3d interrogatory the witness says: I have never made any measurements there.

In answer to the 4th interrogatory the witness says: I have not.

In answer to the 5th interrogatory the witness says: I know nothing about the matters named.

In answer to the 6th interrogatory the witness says: I have no knowledge on the subject.

In answer to the 7th interrogatory the witness says: On the 22d day of October, 1860, I forwarded, by mail, to Thomas H. Lindsay, esq., of Frankfort, Kentucky, an exact copy of the interrogatories filed in the case, with a request that he put any cross-interrogatories he might think fit; also informing him that if he preferred to take the testimony by examination and cross-examination we would fix an earlier day.

I attach hereto a copy of my letter to Mr. Lindsay, marked exhibit "A," and the copy of the interrogatories sent him, marked exhibit "B," which copy was returned to me, in a few days, with a letter, which I also attach, marked exhibit "C."

I have a knowledge of the course of the mails and the means of travel from Cincinnati to Frankfort, and the said letter by due course of mail should have arrived there as early as 3 o'clock of the 23d, or, at furthest, as early as the next morning. I also forwarded to Nashville, on the 22d of October, a letter which I understand did not leave Cincinnati until the morning of the 23d, and should have arrived there on the morning of the 24th. I attach hereto a copy of the notice which was sent to be served on Jesse W. Page, with a return of the service thereon, which copy is marked exhibit "D."

By taking the afternoon train from Nashville, on the 25th, a party could reach here on the morning of the 26th, unless he missed connections, and in case the connection had been missed could have reached here in the evening, or, at furthest, on the morning of the 27th. On the 26th of October I applied for a commission, in accordance with said notice, which was passed over to the next day, to give ample time for any one to appear, if desired. On the 27th, shortly before the adjournment of the court at noon, the order was passed granting the commission. On the 30th of October I wrote Mr. Page, at Nashville, a letter, a copy of which I hereto attach, marked "E."

T. D. LINCOLN.

Subscribed in my presence and sworn to before me.

WILLIAM M. TREVOR,
Commissioner.

UNITED STATES OF AMERICA,
Southern District of Ohio, sct.

I, William M. Trevor, a commissioner, appointed by the circuit court of the United States as stated in the caption hereof, and authorized by the annexed commission to take the testimony of Ralph N. Douglass, Alexander Ford, William H. Searles, A. B. Miller and T. D. Lincoln, to be used in a cause pending in the Supreme Court of the United States, wherein Christopher G. Pearce et al., incorporated as The Niles Works, are appellants, against Jesse W. Page and Joseph C. Leake, claimants of the steamboat

Dr. Robertson, do hereby certify that the reason for taking said depositions is, and the fact is, that the said witnesses reside more than one hundred miles from the city of Washington, the place of trial of said cause, and that the same are necessary.

I further certify that notice was served upon Jesse W. Page, one of the appellees, to file cross-interrogatories, and that no cross-interrogatories have been filed.

I further certify, that on the 24th day of November, A. D. 1860, at the city of Cincinnati, in said southern district of Ohio, I was attended by the said witnesses above named, they being of sound mind and lawful age, and the said witnesses were each and all, previous to the commencement of their respective depositions, carefully examined, cautioned and solemnly sworn to testify the truth, the whole truth, and nothing but the truth, in answer to the said interrogatories, and the depositions hereinbefore appearing were by me reduced to writing in the presence of said witnesses respectively, and were read over by me to them, and thereafter subscribed by said witnesses respectively in my presence.

I further certify, that I have retained the said depositions in my possession for the purpose of transmitting the same by mail to the court for which they were taken.

I further certify, that I am not of counsel or attorney, or relative of either of the parties to this cause, or in any manner interested in the event thereof.

All of which is here certified as to the reason for taking said depositions, and the manner in which they are taken.

In testimony whereof I have hereunto set my hand and seal.

[L. S.] WILLIAM M. TREVOR, *Commissioner.*

Ford's witness fee, $1 50
Commissioner's fee, 9 00

Paid by Lincoln, Smith, and Warnock, proctors for libellants and appellants.

Exhibit A referred to by T. D. Lincoln.
WILLIAM M. TREVOR, *Commissioner.*

A.

CINCINNATI, *Oct.* 22, 1860.

THOS. N. LINDSAY, Esq.,
Frankfort, Ky.

DEAR SIR: Enclosed are some interrogatories which we shall file for commission under the rules. I particularly call your attention to rule 12, to be found in 21 How. U. S. Reports, sec. 2, page x. If you prefer to have the testimony taken by examination and X-examination when you are present, we will fix some earlier day.

The witnesses, however, may not all be here at any one time. Please furnish the X-interrogatories, if you desire it, at once.

Yours, respectfully,

(Signed) T. D. LINCOLN.

Exhibit E referred to by T. D. Lincoln.

WILLIAM M. TREVOR, *Comm'r.*

E

CINCINNATI, *Oct.* 30, '60.

JESSE W. PAGE, *Nashville.*

DEAR SIR: I wrote to Mr. Lindsay and sent him copy of the interrogatories which I also sent you. He has returned them, saying to me that he had no further connection with the case, and therefore he should decline to cross-examine. I write this that you may know that the court granted the commission on the 27th, and you may see that your lawyer attends to it if you desire so to do. We have had an accurate survey made during the last low-water, and it is principally as to this that we desire to take this evidence.

Yours, &c.,

(Signed) T. D. LINCOLN.

Exhibit "B" referred to by T. D. Lincoln.

WILLIAM M. TREVOR, *Commissioner.*

"B."

Supreme Court of the United States.—In Admiralty.

CHRISTOPHER G. PEARCE and others, incorporated as "The Niles Works," vs. THE STEAMER DR. ROBERTSON. } Appeal.

Interrogatories to be propounded to William H. Searles, R. N. Douglass, Alexander Ford, Miller, and others, on the part of the libellants and appellants.

First. State your age, residence, occupation, where and how long you have followed it, and in what particular capacity.

Second. Are you acquainted with the Ohio river at the Cincinnati tow-head, some six or eight miles below Shawneetown, Illinois; if so, how long have you been acquainted with it, and how did you become so?

Third. Have you made any measurements of the width of the navigable channel opposite the tow-head; if so, when and how were they made, and what was the result? Did you measure the depth of the water there, and what was the result? State also the stage of water in the river at the time it was made.

Fourth. Have you made a map of the river there with your

measurements? if so, present it, and attach it, or a copy of the same, and explain it fully and particularly.

Fifth. Have there been any changes there since the loss of Douglass' flat-boat in August, 1856; if so, what are they? Are there any sunken flat-boats near there? If so, point them out on the map, and state when they were sunk, where they were from, and what water they drew at the time; how much do such boats generally draw; what, if any, changes have they caused, and are they inside or outside the navigable channel for steamers drawing three feet at the time of said loss?

Sixth. How do you know where that channel was in 1856, when said boat was lost? What is the distance from the tow-head to the said coal-boats? What is the width of the river opposite the tow-head, and what the width between the Kentucky shore and the dry bar just below?

Seventh. Do you know, or can you set forth, any matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

LINCOLN, SMITH & WARNOCK,
Proctors for Libellants and Appellants.

To the Steamboat "Dr. Robertson," Jesse W. Page and Joseph C. Leake, claimants and appellants, or their proctors:

You are hereby notified, that an application will be made in this case to the circuit court of the United States for the southern district of Ohio, sitting in Cincinnati, on Friday, October 26th, 1860, to issue a commission to Wm. M. Trevor to take the testimony of the witnesses above named and others, in answer to the foregoing interrogatories, and any cross-interrogatories you may desire to file; and this notice is given you that you may file said cross-interrogatories.

LINCOLN, SMITH & WARNOCK,
Proctors for Libellants and Appellants.

Notice forwarded to Thos. N. Lindsay, esq., by letter of the 22d of Oct., 1860, and returned to me by letter of the 28th of Oct.

Exhibit "C" referred to by T. D. Lincoln.

WM. M. TREVOR,
Commissioner.

FRANKFORT, 28 *Oct.*, 1860.

T. D. LINCOLN, Esq.

DR. SIR: Yours of the 22d came the day after I had left for Grant court, which will explain why it was not sooner ans'd.

As regards the interrogatories for further evidence to be used be-

fore the Supreme Court, I scarcely know what to say. My connection with the cause ceased when it left the circuit court.

I do not know who the steamboat men have employed at Washington. They declined complying with my terms to have it attended to there, and I therefore have given no further concern about their case. I did not get your interrogatories until last evening, on my return home. I do not feel at liberty, as I stand, to acknowledge notice, nor cross your interrogatories.

Resp'ly, yours,

TH. N. LINDSEY.

Exhibit "D," referred to by T. D. Lincoln.

W. M. TREVOR,
Commissioner.

D.

Supreme Court of the United States.—In Admiralty.

CHRISTOPHER G. PEARCE and others, incorporated as "The Niles Works,"
vs.
THE STEAMER DR. ROBERTSON.
} On Appeal.

Interrogatories to be propounded to William H. Searles, R. N. Douglass, Alexander Ford, Miller, and others, on the part of the libellants and appellants.

First. State your age, residence, occupation, where and how long you have followed it, and in what particular capacity.

Second. Are you acquainted with the Ohio river at the Cincinnati tow-head, some six or eight miles below Shawneetown, Illinois; if so, how long have you been acquainted with it, and how did you become so?

Third. Have you made any measurements of the width of the navigable channel opposite the tow-head; if so, when, and how were they made, and what was the result? Did you measure the depth of the water there, and what was the result? State also the stage of water in the river at the time it was made.

Fourth. Have you made a map of the river there with your measurements? if so, present it and attach it, or a copy of the same, and explain it fully and particularly.

Fifth. Have there been any changes there since the loss of Douglass's flat-boat, in August, 1856; if so, what are they? Are there any sunken flat-boats near there? if so, point them out on the map, and state when they were sunk, where they were from, and what water they drew at the time. How much do such boats generally draw? What, if any, changes have they caused, and are they inside or outside the navigable channel for steamers drawing three feet, at the time of said loss?

Sixth. How do you know where that channel was in 1856,

when said boat was lost? What is the distance from the tow-head to the said coal-boats? What is the width of the river opposite the tow-head, and what the width between the Kentucky shore and the dry bar just below?

Seventh. Do you know, or can you set forth, any matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this examination, or the matters in question in this cause? if yea, set forth the same fully and at large, in your answer.

LINCOLN, SMITH & WARNOCK,
Proctors for Libellants and Appellants.

To the Steamboat Dr. Robertson, Jesse W. Page, and Joseph C. Leake, claimants, or their proctors:

You are hereby notified, that an application will be made in this cause to the circuit court of the United States for the southern district of Ohio, sitting at Cincinnati, on Friday, the 26th of October, 1860, to issue a commission to Wm M. Trevor to take the testimony of the witnesses above named, and others, in answer to the foregoing interrogatories and cross-interrogatories you may desire to file, and this notice is given you that you may file said cross-interrogatories.

LINCOLN, SMITH & WARNOCK,
Proctors for Libellants and Appellants.

STATE OF TENNESSEE,
Davidson County, ss.

J. K. Edmonson, sheriff, being duly sworn, says that he served interrogatories and notice, of which the within are copies, on Jesse W. Page, at Nashville, as per his endorsement; that said service was made in the forenoon of said day, about eleven o'clock, and at seven hours before the afternoon train of that day left for Louisville.

J. K. EDMONDSON,
Sh'ff D. C.

Subscribed and sworn to before me, a justice of the peace, duly authorized by the law of Tennessee to administer oaths, this 10 day of November, 1860.

G. M. SOUTHGATE, [L. S.]
Justice of the Peace for Davidson County, Tennessee.

Came to hand Oct'r 25th, 1860, and executed the same day, by delivering a true copy of the within to Jesse W. Page.

J. K. EDMUNDSON,
Sh'ff D. C., Tennessee.

(For map annexed see original.)